Acta Apostolicae Sedis

Volume VIII (*1916*)
Commentarium Officiale — The Official Acts of the Holy See

The Holy See

(Sancta Sedes)

An English translation of the Latin edition
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[*Latin ed. p. 5*]

Year VIII - Vol. VIII, January 18, 1916, No. 1.

ACTA APOSTOLICAE SEDIS, OFFICIAL COMMENTARY.

ACTS OF POPE BENEDICT XV.

LETTER TO CHARLES HAMEL AND HENRY SAINT-OLIVE, CO-CHAIRMEN OF THE BODY CHARGED WITH MANAGING THE WORK "FOR THE PROPAGATION OF THE FAITH," OFFERING GREETINGS AND ENCOURAGEMENT, ONE IN PARIS, THE OTHER IN LYONS.

Beloved Sons, greetings and the apostolic blessing.

Having been, by divine mercy, raised to the pinnacle of the Christian apostolate, there is nothing that We desire more, beloved Sons, than to be in communication with you and to share our thoughts with you. For whenever We contemplate the entire body of Catholics, We are reminded that there are other sheep that are not of the fold of the Church, and that We must bring them to that fold; and from this thought, spontaneously, a fervent desire arises within Us for you and for the pious work to which you are entrusted, seeking ever better things in your endeavors and undertakings.

Indeed, as We must confess, the fruits of your diligence and care, with God's help, are not insignificant, as they testify to the growth of the ranks of the faithful and, through your efforts, to the expeditions of evangelical men. But, alas! At precisely this time, when We so ardently desired a more abundant expression of Catholic charity, We have seen circumstances arise that, rightly, your piety deplores, namely, the withdrawal of the supply of sacred ministers and the necessary assistance from the Church's missions.

However, considering your virtue, We wish to remind you not to let your spirits be discouraged by the rising and increasing difficulties. For, as you know, the Work for the Propagation of the Faith is closely linked to the eternal salvation of souls, for which it strives intensely, as He who wills that all men should be saved.

[*Latin ed. p. 6*]

6 Acta Apostolicae Sedis - Official Commentary: and for all who are dead, He will render what is due to the sower and will increase the fruits which the laborers of the Gospel have produced. This is the one thing we ask of you: that, as you have thus far demonstrated your zeal for the Apostolic See and for the Church, you persevere in being eager to serve both. If any obstacles should hinder your efforts, and thus diminish the fruits of your labor, they will assuredly not diminish the merits you earn before God, nor the eternal rewards that are to be expected from Him. In the

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meantime, we gratefully acknowledge the services you have rendered, and we impart to you, beloved sons, and to all your helpers, wherever they may be, our Apostolic Blessing, a testament to the singular benevolence of Heaven. Given in Rome, at St. Peter's, on the first day of January, in the year of Our Lord 1916, in the second year of Our Pontificate. BENEDICT XV, Pope.

[*Latin ed. p. 7*]

The Most Holy Congregation of the Holy Office.

ACTS OF THE MOST HOLY CONGREGATIONS.

THE MOST HOLY CONGREGATION OF THE HOLY OFFICE.

DECREE: CERTAIN TEMPORARY CONCESSIONS ARE DECLARED AND EXTENDED DUE TO THE WAR.

On December 16, 1914.

His Most Holy Lordship, Pope Benedict XV, of divine providence, Pope XV, having been granted an audience by the Reverend Father, Prefect of the Holy Office, and having considered the requests presented, deigned benignly to declare the following privileges and faculties, concerning indulgences, both among all nations and among some of them, on account of the long-standing war currently ravaging Europe:

1. The privilege of celebrating Masses, which may be celebrated anywhere in suffrage for the souls of those who have died in the war (Most Holy Congregation of the Holy Office, January 28, 1915);

2. A dispensation from the clause concerning the consent of the Ordinary, regarding the blessing of devotional objects for priests who are among the soldiers (Most Holy Congregation of the Holy Office, February 4, 1915);

3. And 4. The faculty for priests attached to the military to impart the Apostolic Blessing with a plenary indulgence to the faithful at the point of death, and to apply, with a single sign of the Cross, crowns, rosaries, crucifixes, sacred medals, and small statues, the aforementioned apostolic indulgences (Most Holy Congregation of the Holy Office, June 17, 1915), to be extended to all nations engaged in the war, valid until the end of the war.

Notwithstanding any contrary provisions.

R. CARD. MERRY DEL VAL, Secretary.

L.©S.

f Donatus, Archbishop.

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Ephesinus, Prefect of the Holy Office.

[*Latin ed. p. 8*]

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SACRED CONSISTORY CONGREGATION I

ERECTION OF A NEW DIOCESE

His Most Holy Father, Pope Benedict XV, by decree of the Sacred Consistory Congregation of December 15, 1915, divided the territory of the archdiocese of Mariana as it then existed into two parts; in the western part, the archdiocese of Mariana was reduced in extent, while in the eastern part, where the city of Caratinga is located, a new and distinct diocese of Caratinga was permanently erected, observing the same boundaries by which the eastern part of the archdiocese of Mariana had previously been circumscribed; nevertheless, this new diocese is separated to the west from the archdiocese of Mariana by the civil boundaries of the municipalities of Garatinga, Manhuassú, and Garangola, which, together with other municipalities of José Pedro, S. Manuel do Mutum, and Aymorés, will belong to the new diocese, and thus the diocese includes the following parishes: St. John the Baptist of Caratinga, St. Anthony of Rio José Pedro, St. Manuel do Mutum, Gonceiçao do Guietê, St. Helen, St. Francis of Vermelho, St. Margaret, Most Holy Sacrament, St. Simon, St. Lawrence of Manhuassú, Divine Savior of Garangola, St. Lucy of Garangola, St. Francis of Gloria, and Tombos of Garangola.

This newly erected diocese of Caratinga is constituted, until otherwise provided, as a suffragan diocese of the archdiocese of Mariana.

II. ECCLESIASTICAL PROVISIONS

By decree of the Sacred Consistory Congregation, His Most Holy Father, Pope Benedict XV, provided for the following for this church, namely:

January 3, 1916. — The Reverend Thomas Dunn, canon of the Metropolitan Church of Westminster, was appointed prefect of the cathedral church of Nottingham.

[*Latin ed. p. 9*]

Sacred Congregation of the Consistory, 9, March 1, 1916. — By Decree of the Sacred Congregation of the Consistory, His Holiness, Pope Benedict XV, appointed the Most Reverend Andrea Caron, titular Archbishop of Chalcedon, as His Delegate, with the faculties of an Apostolic Administrator, for the Abbey of the Holy Vincent and Anastasius at Kis-Kajan.

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SACRED CONGREGATION FOR THE CENSURE OF HERESY, July 31, 1915.

1. After scarcely two years since a new bishop was appointed to the diocese, numerous copies of a certain public letter, secretly printed, were widely disseminated among the people, addressed to the clergy against the bishop, but without any name subscribed. Shortly thereafter, as if by agreement, another pamphlet of contention, also printed and signed with a fictitious name, appeared to respond to the aforementioned author, but in such a way that the grievances against the bishop were exaggerated to an extreme degree, causing great scandal to all those to whom the letters reached.

Moved by these events, the aforementioned bishop, after conducting appropriate investigations, denounced five priests to this Sacred Congregation as being the perpetrators or authors of these infamous pamphlets. For he considered—as he revealed in his letters—that it would not be proper for the bishop to proceed against them himself, in order to avoid any suspicion of seeking revenge; rather, it would be most fitting, as a salutary example, for the Sacred Congregation itself to take action against the accused.

Since these matters were brought to the attention of this Sacred Congregation, the Archbishop of a neighboring diocese was appointed to inquire into the matter and report his findings, after also hearing those whom the bishop had denounced. The aforementioned Archbishop, diligently fulfilling his duty, sent a detailed report of the completed investigation.

[*Latin ed. p. 10*]

10. *Acta Apostolicae Sedis* – A formal record, which indicated that, in addition to two documents, a third had been published by the printers, although it had not yet been fully distributed, and a fourth was already prepared for the press; furthermore, in addition to five priests reported by the bishop, four others were to be subjected to the same accusation. However, since the archbishop had conducted not a full trial, but only an inquiry, and had heard the accused only as witnesses, and had even required them to take an oath to speak truthfully; by the authority of the Most Holy Father, who had ordered the case to be examined in this Holy Congregation, the proceedings were again sent to the same archbishop, who was to notify each of the accused, as a judge, of the individual charges in detail and precisely, and to diligently gather all defenses of every kind, but without requiring the accused to take an oath. Therefore, after all these things had been completed and everything was properly prepared for judgment, the case was presented in the plenary assemblies of the Eminent Fathers, and the question of whether and how attention should be given to the accusations against the nine priests in this case was considered. The response was: "Pending the outcome, the Divine Offices and any benefits [held] by

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the priests AA, BB, CC shall be suspended at the discretion of the Holy See." The judgment of the Eminent Fathers was approved by the Most Holy Father in a subsequent audience, as recorded below by the undersigned Secretary.

11. In fact, a crime had certainly been committed with the utmost certainty, namely, one that proceeds from a notorious fact, as described by the Doctors (e.g., Schmalzgr., in *Tit. I, l. V, Decr., n. 1 ss.*): "A notorious fact is one that manifestly presents itself to the eyes and has a continuing course, so that all can see it." Indeed, in the records, there was the very body of the crime, namely, there were numerous alleged examples, collected from here and there throughout the diocese, of the documents concerning which the accusation had been made. It was sufficient to present these to the eyes of the faithful so that it would immediately be clear that it was a notorious matter, not only in the nature of the fact, but also in the nature of the crime (cf. Schmalzgr., *l.c., n. 14), and indeed to such an extent that "such a crime could not be concealed by any evasion" (*cap. Tua, 8, tit. II, lib. III Decretal*).

12. First of all, it was evident that the crime of defamation had been committed, and even of atrocious calumny against the bishop, who was widely referred to in the documents as "the scourge of God," "the executioner of justice," "the wolf in sheep's clothing," etc. The crime of defamation appeared even more serious, even as it is described in the modern codes of criminal law: there were indeed specific, as they say, attributions of wrongdoing, and those were calumnious: for example, in one of the documents, "the bishop had dismissed the customary administrators of the finances, so that he could dispose of the revenues at will, without any witness," and other similar things were narrated, from which, if true, the bishop would have suffered the gravest blemishes of avarice, injustice, simony, etc. Furthermore...

[*Latin ed. p. 11*]

The Holy Congregation of the Council was a most open provocation to rebellion against their own bishop; indeed, it was openly declared as the purpose of the pamphlets being published: "so that the clergy of the diocese may rise up against the bishop under the banner of 'redemption'." Moreover, those who were "for the 'new crusade'" were already being condemned, and in the third pamphlet, the authors boldly signed themselves: "we who are rebels." To achieve this criminal objective, all these authors openly confessed that they had entered into a conspiracy, or rather, a secret agreement. "In order that the bishop may be driven away, or rather, reduced to nothing," they said, "it was necessary for us to enter into a strong secret agreement; and indeed, we met with a password, and we swore as our fathers did before the Pontiff [presumably meaning the Pope], and it will not be possible for us to be defeated in this struggle." They also

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obscurely demonstrated the weapons of this struggle: "the pamphlets that we publish and are about to publish are swords and weapons"; furthermore, they proclaimed: "whether we contend by means of the press, or by any other means, we must ambush and drive away this old tiger."

3. Since the crimes of injury, defamation, provocation to rebellion, and conspiracy against their own bishop were clearly established, it only remained to investigate the identities of the perpetrators and the penalties to be imposed upon them. However, after a diligent examination of the proceedings, it appeared that nine priests were accused, and all of them, individually, had participated in the aforementioned offenses, albeit to varying degrees of certainty. Regarding three of them, it was fully and completely established that they were the main authors of the pamphlets and the conspiracy, and that they had fostered it through actions, writings, and money; and indeed, two of them confessed this before the archiepiscopal inquisitor, while the third, although he initially denied it, was accused by all his accomplices, as if with one voice, and was convicted by other evidence. Therefore, with regard to these three, the crime was manifestly evident according to the law, as per chapters V, and chapter fin de cohabit., and chapter cum olim 24, de verb. signif. Regarding the others, either due to imperfections in the proceedings, or rather, in the investigation, or for some other reason, full proof could not be obtained except with regard to their cooperation or complicity. This, however, might be sufficient for condemnation, because, as is accepted in law, those who, by common agreement, although by different means, physically participate in a crime, incur the same or similar culpability. Indeed, according to chapter 22, causes XI, question I, "not only those who act, but also those who consent" can be punished.

4. Finally, as for the type of penalties, it is clear that when multiple crimes have been committed, which are contained in the same order and concur in the same action, the most serious offense, or the one that is considered the most grave, should be considered first.

[*Latin ed. p. 12*]

The Acts of the Apostolic See are to be considered as evidence for the punishment (arg. 1. 14 D. de accus. XL VIII, 2), but with the understanding that consideration should also be given to other crimes, which, as if by means, are arranged in the same general category, at least to demonstrate a wicked and deliberately conceived plan, long conceived and nurtured in the mind, from which, at least, the gravity of the principal crime is often increased, and to which a greater severity of punishment should correspond. In the case of conspiracy against one's own bishop, however, this was considered a more serious crime than others, indeed, the highest form of crime, about which there was no room for doubt, after the confession of the guilty parties was given in court. The punishments for such a crime, as everyone knows, are the most severe. Indeed, canon 18 and 31, c. 11,

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q. 1, Decretum Grat., impose on a cleric the penalty of "deposition and expulsion from the curia (that is, from the secular arm) so that he may receive what he has unjustly done"; canons 21-25 of the same place likewise threaten conspirators against the bishop, both clerics and those who consent to them, with degradation and perpetual infamy; and all these canons appear to have been neither abolished nor mitigated by any subsequent law (cf. Thesaurus-Giraldi, de poen. eccl., p. II, s. v. Conspiratio, cap. I). Since this cause, which would have been a matter of judicial order, was, due to particular circumstances, and through explicit Apostolic authority, carried out through the disciplinary or administrative channel, it was decided by the Fathers that the punishments should not be applied strictly according to the law, but rather that some penalty, severe indeed and exemplary, but more medicinal than vindictive, should be imposed on the most prominent of the guilty, whose crime could not be concealed by any tergiversation; and that the sentence should be deferred for the others who were denounced, in order to strengthen, in the meantime, the evidence against them, or rather, to lead them, by example, to repentance and to the amendment of their behavior. And so, as far as I am concerned, it was concluded and judged.

O. GIORGI; Secretary.

[*Latin ed. p. 13*]

SACRED CONGREGATION OF RITES

I. IN ROME OR NAPLES

DECREE CONCERNING THE BEATIFICATION AND PROPOSED CANONIZATION

OF THE VENERABLE SERVANT OF GOD, JOHN, OF BURGUNDY, PRIEST, OF THE ORDER OF THE MINOR FRATIARS.

ON THE QUESTION:

Whether it is established that the Venerable Servant of God possessed the theological virtues of faith, hope, and charity, in God and towards his neighbor, and also the cardinal virtues of prudence, justice, fortitude, and temperance, and their associated virtues, in a heroic degree, in every circumstance and in effect, concerning that which is under consideration?

For the cause of the beatification of the Venerable Servant of God, John, of Burgundy, although it may lack the outward splendor of certain events, nevertheless, the intrinsic merit of the cause itself is most outstanding. In-

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deed, both the apostolic and ordinary inquiries have gathered and presented evidence which clearly establishes that our Servant of God, from his baptism, preserved the integrity of his morals, and that he fulfilled, until his death, all the duties proper to his state, in a manner that was holy and inviolate.

And in order that he might accomplish these things, and indeed did accomplish them, as the records describe, the Servant of God was subjected to a constant and never-interrupted struggle against both internal and external enemies of the soul and of virtue, which were well known and sufficiently powerful. To repel these daily assaults and to drive them far from himself, the Servant of God, from his very youth, with great zeal and effort, sought to obtain heavenly assistance, especially through devotion to the most august Mother of God, our Mother, and through the most diligent and faithful cooperation with divine grace. Consequently, although his life was concluded after scarcely twenty-six years, a period which, nevertheless, he lived maturely and zealously, he attained a likeness to sanctity such that it is comparable to that of the three illustrious stars of the Society of Jesus: Aloysius Gonzaga.

[*Latin ed. p. 14*]

14 Acta Apostolicae Sedis - Official Commentary by Stanislaus Kostka and John Berchmans. Since adolescence is, as it were, the foundation of the rest of life, and those who, from their earliest years, have entered the right path find it very difficult to deviate from it afterward, according to the celebrated teaching of Holy Scripture: "The young man shall hold fast to the law of his father; let him not depart from it" (Proverbs, XXII, 6). For this reason, it becomes clear, as if of its own accord, the importance and dignity of this matter. Indeed, the venerable John Baptist de Burgundi, in particular, provides a shining example for young people who are engaged in their studies. For when they have learned and clearly perceived that, above all else, the integrity of life and the innocence of morals are to be held dear, and that these are necessary for the fulfillment of all the duties and obligations of this age, a certain passage from a celebrated letter addressed to a young man who was being educated, and who was being instructed in the ways of youth, immediately comes to mind. Although this passage may be found in a book that the young man has in his hands at school, it is certainly fitting, and especially in times of adversity, to bring it to the attention of our young people, so that it may be deeply impressed upon their minds, as the Author describes it in these words: "First of all, know the goods that you possess, so that you may appreciate them, in order to be grateful to God, who has granted them to you, and finally, to make use of them as you should. Others would begin by recommending study to you, and I begin by recommending goodness to you, and I beg you to keep it in your heart, as a treasure beyond price. Doctrine is often a mere bauble,

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which serves us little in the affairs of life, and of which we make a show mostly on festive days, like carpets and silver tableware. But goodness is a necessity, which we must have at hand every hour, every moment. Without learned men, believe me, the world could go forward very well; without good men, everything would be overturned" (Epistolario di Giuseppe Giusti, T ediz., Vol. Unie, pages 165-166. Letter to Giovannino Piacentini, December 7, 1840). Therefore, those who, a year after the death of the Servant of God, diligently took care to prepare an informative process in the ecclesiastical court of Naples, concerning the life, virtues, and miracles of that holiness, certainly deserve great praise; and the delays that have arisen, due to particular incidents and circumstances, are being diligently and carefully addressed by the modern Postulator of the Order of Friars Minor.

[*Latin ed. p. 15*]

The Holy Congregation of Rites, in its fifteenth general session. For, after all preliminary judgments had been completed, two years ago, on August 26th, in the residence of the Most Reverend Cardinal Francis Cassetta, Bishop of Tusculanum, a preparatory session concerning virtues was held. And on June 22nd of the current year, after a preparatory session held in the Vatican, on December 7th of the preceding month, a general session was held before His Holiness our Lord Benedict XV. In this session, after praising the Most Reverend Cardinal, the Relator of the cause, the following question was proposed for discussion: Does it appear that the theological virtues of faith, hope, and charity in God and in neighbor, as well as the cardinal virtues of prudence, justice, fortitude, and temperance, and those things connected with them, were present in the venerable Servant of God, John Baptist of Burgundia, in a heroic degree, in the case and with the effects under consideration? The Most Reverend Cardinals and Consultors, each in turn, gave their votes. After hearing these, with a joyful and attentive spirit, His Holiness our Lord decided to postpone his final judgment, as was customary; meanwhile, he encouraged all those present to pour forth prayers to the heavenly Light. Today, on the first Sunday after Epiphany, after a sacred and most devout ceremony, the Most Reverend Cardinals Anthony Vico, Bishop of Portuensis and of S. Rufinae, Pro-Prefect of the Congregation of Holy Rites, and Francis Cassetta, Bishop of Tusculanum, the Relator of the cause, together with the Reverend Father Angelo Mariani, Promoter of the Faith, and myself, together with the undersigned Secretary, were present, and he solemnly declared: That it appears that the theological virtues of faith, hope, and charity in God and in neighbor, as well as the cardinal virtues of prudence, justice, fortitude, and temperance, and those things connected with them, were present in the venerable Servant of God, John Baptist of Burgundia, in a heroic degree, in the case and with the effects under consideration, so that the process may proceed to further

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stages; namely, the discussion of four miracles. He ordered that this decree be made public and recorded in the acts of the Holy Congregation of Rites on the fifth of the ides of January, 1916.

A. CARD. VICO, S. R. G. Pro-Prefect.

L. © S. Alexander Verde, S. R. G. Secretarius.

[*Latin ed. p. 16*]

16 Acta Apostolicae Sedis - Official Commentary II OF SAINT HIPPOLYTE, CONCERNING THE INTRODUCTION OF THE CAUSE OF THE SERVANT OF GOD, JOHN BAPTIST STOEGER, LAY BROTHER OF THE CONGREGATION OF THE MOST HOLY REDEEMER. In the village of Enrersfeld, near Vienna, on October 4th of the year 1810, John Baptist Stoeger was born, who, as a boy, diligently responded to the instruction of his parents and the care of his uncle. Having been instructed in the Christian way of life, he also preferred the exercises of piety to pleasures. He was increasingly encouraged by the sacred readings and the deeds and examples of the saints, not only to observe the precepts of religion, but also to attain to better virtues. Which, at an already advanced age, with God's help, he accomplished, dedicating himself entirely to divine service. After consultation with and approval from his pastor, on January 1st of the year 1836, he was received as a lay brother into the Congregation of the Most Holy Redeemer, located at the College of Vienna, near the Stairs of the Blessed Virgin Mary, by the Venerable Servant of God, Joseph Passerai. Having put on the habit of the Institute, and having begun and commendably completed his novitiate, on March 18th of the year 1840, he took his religious vows. He was sent to the suburban village of Weinhaus, where he devoted his efforts to the benefit of the Institute. For sixty-four years, the time he lived in the Congregation, he performed the duties of cook, baker, gardener, and other humble services, so that he constantly joined spiritual life to external labor. He also zealously devoted himself to the service of the temple and diligently served the decorum of the house of God. From sacred sermons and pious books, he acquired a certain heavenly doctrine, which he poured out in religious conversation with his fellow workers, together with love for Christ the Redeemer, especially hidden in the Sacrament of the Eucharist, and devotion to the Virgin Mary. He proved to be dear and acceptable to the Superiors and Fathers, both for his integrity of faith and morals, as well as for his observance of duties and regulations. Finally, the Servant of God, weakened by old age and labor, patiently enduring a long-standing disease of gout and a ruptured vein in the foot, confident in the divine mercy and the protection of the Most Blessed Virgin Mary, peacefully died in the city of Eggenburg, in the diocese of St. Hippolyte, on November 3rd of the year 1883. Meanwhile, the fame of the sanctity of life, virtues, and miracles that John Baptist had acquired during his life, after his death, increased so much that, with the

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benevolent acceptance of the Alphonsian Institute, an Informative Process was prepared by the Bishop of St. Hippolyte. Once completed and sent to the Congregation for the Causes of Saints in Rome, and since everything was in accordance with the law,

[*Latin ed. p. 17*]

The Sacred Congregation of Rites, in order that further steps might be taken, at the urgent request of the Most Reverend Father Claudio Benedetti, General Promoter of the Causes of the Most Holy Redeemer, and after attentive consideration of the petitions of certain Eminences, Most Reverend Cardinals, numerous Archbishops and Bishops, as well as Superiors General of Orders or Congregations, and other men of ecclesiastical or civil standing, the Eminent and Most Reverend Lord Janus Granito Pignatelli di Belmonte, Bishop of Albanensis, appointed as Proponent or Relator of this cause, at the ordinary meetings of the Sacred Congregation of Rites, held on the designated day at Vatican, proposed the following question for discussion: Whether a Commission for the Introduction of the Cause should be appointed, in this case and for the purpose under consideration? And the Eminent and Most Reverend Fathers entrusted with the safeguarding of sacred rites, after the report of the aforementioned Proponent, having heard the voice and the written opinion of the Most Reverend Father, Promoter of the Holy Faith, and after carefully considering all matters, judged it fitting to respond: Affirmative, that is, that the Commission for the Introduction of the Cause should be appointed, if it pleases the Most Holy [Pope]. On December 14, 1915. Subsequently, these matters were brought to the attention of Our Most Holy Lord Benedict XV, by the undersigned Cardinal, Pro-Prefect of the Sacred Congregation of Rites, and His Holiness, approving the resolution of the aforementioned Sacred Congregation, deigned to sign with his own hand the Commission for the Introduction of the Cause of the Servant of God, John Baptist Stoeger, a lay member of the Congregation of the Most Holy Redeemer, on December 22 of the same year.

A. CARD. VICO, S. B. C. Pro-Prefect. h.

S. Alexander Verde, S. R. C. Secretary.

SACRED CONGREGATION FOR EXTRAORDINARY ECCLESIASTICAL AFFAIRS.

EXTENSION OF JURISDICTION AND POWERS OF THE ORDINARY OF CASTRENSIS WITHIN THE BELGIAN ARMY.

From the Audience of the Most Holy Father, on December 14, 1915.

Since the Most Reverend Lord John Marinis, Military Vicar, or Chaplain Major, within the Belgian Army, inquired whether, by virtue of the decree issued on August 27 of the current year by the Sacred Congregation for

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Affairs, in ACTA, Vol. VIII, No. 1, [the matter in question]...

[*Latin ed. p. 18*]

18 Acta Apostolicae Sedis – Official Commentary on Extraordinary Ecclesiastical Matters, besides priests and clerics, both secular and regular, who minister to Belgian soldiers in spiritual matters, in the *Castro de Ordiales* or hospitals, all other ecclesiastical personnel – whether they are priests, or simple clerics, or even religious novices – who, by their office, attend to soldiers who are wounded or to the sick, are not subject to any mandated duty concerning spiritual matters. His Most Holy Highnesses, Pope Benedict XV, referring me with the following letter from the Secretary of the same Holy Congregation, ordered that the following be answered: "No." However, Most Blessed Father, considering that if these priests, clerics, and novices, who are entitled to stipends, are not entirely without the support of ecclesiastical governance or the vigilance of their ecclesiastical superiors in *Pernes*, and that this would be most beneficial, both for maintaining ecclesiastical discipline and for promoting their spiritual well-being, it was judged fitting to extend the rights and powers with which the Ordinary of *Castrum* uses among the Belgian army, as mentioned in the aforementioned decree, so that the same Ordinary may exercise jurisdiction over all priests, clerics, and religious personnel, jointly with the Ordinary of the diocese or the Superior of the Order or Institute, in all matters pertaining to ecclesiastical discipline. However, if it should ever happen – may it not occur – that the Ordinary of *Castrum* should impose any penalty on such clerics or religious, he shall be obliged to inform the Ordinary of the diocese or the religious Superior of the crime and of the penalty imposed as soon as possible. Contrary provisions of any kind, even those deserving of special and individual mention, do not apply. Given in Rome, from the Secretariat of the same Holy Congregation, on the day, month, and year as mentioned above. Eugenius Pacelli, Secretary.

[*Latin ed. p. 19*]

ACTS OF THE TRIBUNAL OF THE SACRED CONGREGATION BOTA I - FIESOLE, REGARDING MATTERS OF JURISDICTION, BOTH HABITUAL AND ACTUAL.

During the pontificate of Pope Benedict XV, in the first year of his dominion, on the ninth day of July, in the year 1915, the Most Reverend Fathers, Doctors Aloysius Sincero, Ponens, Joseph Mori, and Frederick Cattani, Auditors *de turno*, in the matter of Fiesole Jurisdictions, between the canons of the collegiate church of the town of Figline Valdarno, represented by their legitimate procurator, the advocate Christopher Astorri, and the Prelate of that collegiate church, with the Reverend Promoter of Justice intervening and disputing the matter, rendered this definitive judgment.

The parish church of the town of Figline, in the diocese of Fiesole, was

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erected into a collegiate church on the thirtieth day of July, in the year 1493, by a bull of Pope Alexander VI, with the dignity which is now called the "prebenda," and with twelve canonries; and by this bull, it was also established that the care of souls of said church belonged to the aforementioned chapter, according to the will of the Prelate of that church at the time. This care of souls was regulated in various ways by subsequent chapter statutes and decrees of the bishops.

In the year 1867, the goods of the church and the collegiate chapter were usurped, with the exception of the prebend of the Prelate, to which the care of souls was attached. But since the Prelate, Bargilli, had reclaimed a large part of the usurped goods, the Bishop Corsani, by a decree issued on the seventh day of July, 1873, among other things, regarding the care of souls, the destination, and the administration of those goods, decreed: "That the Prelate, in addition to enjoying the other customary parish revenues, should also be paid, from the portion under his care, the ancient personal prebend...; that the four priests, who are indispensable to the Prelate for the proper performance of the parish ministry and for the functions..."

[*Latin ed. p. 20*]

Acts of the Apostolic See - Official Commentary: "Concerning matters pertaining to the sacred worship, those [persons] must be chosen successively by the Protopriest himself, 'with prior approval of the Ordinary,' and they must be considered as 'mere assistants and temporary officials, removable at will.' However, the present canons of the collegiate church of Figline believe that this decree violates the rights of the chapter, and have instituted a dispute before this Holy Order, contending: 1. That the parochial rights, both habitual and actual, belong to the chapter, except for the exercise of the care of souls, which pertains to the Protopriest of the same collegiate church, and his assistants in such cases; 2. That the annual payment made by the Italian government constitutes the stipends of four canonical benefices; 3. That all things usurped from the chapter, or sums of money paid by the government in favor of the parish, must be restored to the same chapter, even concerning their administration. Therefore, the disputed case was presented with the following agreed-upon questions: 1) Whether it is established that the habitual and actual parochial rights of the collegiate church of the town of Figline Valdarno belong to the chapter, except for the exercise of the care of souls, which pertains to the Protopriest of the collegiate church and his legitimately appointed canons, or canons coadjutors. 2) Whether it is established that the annual payment made by the government in favor of the parish constitutes the stipends of four canonical benefices. 3) Whether all things usurped from the chapter, even concerning their administration, and all sums of money paid by the government in favor of the parish, must be restored to the same chapter in execution of the sentence of the civil tribunal of Florencia of December 31, 1880.

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Two judgments were issued. The first, before Sebastiani, on February 16, 1911, answered the three questions negatively; the second, before Lega, on March 17, 1914, stated that the first judgment should be declared invalid or reformed, according to the following answers to the individual questions, namely: to the first, affirmatively concerning the habitual parochial rights; but the actual rights pertain to the Protopriest and the canons legitimately appointed in the concuratus, or canons coadjutors; to the second, that the sum annually paid by the government in favor of the parish should be attributed primarily and principally to the stipends of the four canonical benefices to which the care of souls is attached, according to the manner explained in the decision or judgment; to the third, except for a portion of the goods to be kept in the diocesan *capsa* according to the existing norms, concerning the remaining goods, affirmatively, but with the cautions to be prescribed by the bishop. Therefore, an appeal was made to a third instance, with the question: Whether the final judgment of March 17, 1915, should be confirmed or declared invalid in this case.

[*Latin ed. p. 21*]

S. Romana Rota 81: Firstly, the doubt that must be considered is that, according to the bull of Alexander VI, the parochial church of Plebis, located in the town of Beata Maria in the diocese of Figline, was erected into a collegiate church; therefore, in favor of the chapter, there exists a presumption of law regarding the care of souls: Lotterius, on benefices, book I, question 14, number 93 and following, with reference. This presumption does not have such force that it can be absolutely stated that, with a final decision of July 1, 1913, in the case of Salutiarum - Iurium, before Many, it was declared that when a church is both collegiate and parochial, wherever this conjunction of collegiality and parochiality arises in the same church, the habitual care belongs to the college or chapter, or that from the mere erection of a parochial church into a collegiate one, the habitual care must necessarily remain with the chapter. For, as the appellate judgment of February 16, 1911, before Sebastianelli, rightly points out, the fact that a parochial church has been erected into a collegiate one does not necessarily mean that all parochial rights have been transferred to the collegiate church; indeed, the erection can be carried out in two ways. And as another judgment of March 17, 1914, before Lega, affirms, the force of the aforementioned presumption is, by itself and by law, that, especially before the Council of Trent, the care of souls, at least habitually, belongs to the chapter, unless it is proven that the founder intended otherwise. Therefore, the meaning is that, if a church is both collegiate and parochial, the collegiate church or chapter has a well-founded claim based on law regarding the property or title of parochial care, and is thereby relieved of the obligation to provide for it, and this is rejected by the opposing party. Arg. S. Rota, Segusina - Concerning the right to say Masses, before Lega, decision IV, 1909, number 7. Moreover,

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the masterful judgment before Lega adds: especially before the Council of Trent. For, before the Council of Trent, there was no universal positive law that stipulated that the care of souls in cathedrals or in collegiate churches should be exercised by suitable vicars, even perpetual ones. Therefore, the care of souls pertaining to the collegiate church, by title, could be exercised and was in fact exercised in various ways, especially: 1) promiscuously, by all canons working on it; 2) by turns, or as much as possible, by each canon during the week; 3) by delegation to a vicar, whether removable or perpetual; 4) by attaching the office of care to a prebend or dignity. To the extent that the care of souls was exercised in the first or second way, especially the first, there was no place for a distinction between habitual and actual care, properly speaking; but to the extent that it was exercised in the third or fourth way, there was a distinction between habitual and...

[*Latin ed. p. 22*]

The Acts of the Apostolic See – the official commentary – could not possess the force it acquired after the Tridentine law, and as modern scholars, such as Bouix and Wernz, explain, it is merely a habitual care, which someone does not actually exercise, nor can exercise by right, but only to some extent can and ought to provide that it be exercised through a vicar, to whom, therefore, the actual exercise of it pertains, not only in fact but also by right. This does not seem to have been sufficiently understood in the total judgment in the case of Salutiarum – Iurium, before Many, on July 1, 1913, correcting the first judgment in the same case issued on September 9, 1911; for in this, the distinction between habitual and actual care was clearly defined, or rather, according to the terms of the very Tridentine Council, as is evident there, nos. 4 and 7 *in fine*. Cf. S. G. Conc. in Lauden., March 24, 1888. Therefore, if the administration of souls is carried out in a chapter promiscuously or on a rotating basis, there can be no doubt that the care of souls belongs to the collegiate church by title and property, without any distinction being made between habitual and actual care; but if it is carried out by a vicar, it must be concluded with absolute certainty that the vicar does not possess anything other than actual care, while the habitual care remains with the college; but if it is carried out by one of those holding a benefice or dignity, then, although it cannot be concluded with absolute certainty and in all cases that the chapter possesses the habitual care, nevertheless, the presumption of law still favors the chapter regarding the habitual care, as rightly affirmed by the cited judgment before Many, on July 1, 1913, in comparison with the appealed judgment before Lega. But in our case, in addition to the presumption of law, the very terms of the *bulla* establishing the collegiate church clearly support this; for in it, it is expressly stated that the care of the souls of the parishioners belongs to the aforementioned Chapter, but with the will of the then-existing Prefect of the said church. These words, "with the will of the Prefect," do not

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create any difficulty, because these words signify only that the care being exercised is under the authority of the Prelate, the chapter, or the Prefect. For if the Pope, as rightly pointed out by the judgment before Lega, had intended that the canons could become coadjutors of the Prefect, according to his will, with regard to the actual exercise of care, by mandate and in the place of the Prefect, he would not have entrusted the care to the chapter, but would have improperly used the term "care," and would have granted what the Prefect himself, with the consent of the Ordinary, could always have accomplished as any simple parish priest: in which case, the words of the *bulla* would not be operative, but otiose. Nor does it matter that the collation, provision, and all manner of disposition of the benefices in the said church are attributed to the Prefect in the *bulla*; nor

[*Latin ed. p. 23*]

Saint Boman Bota, 23, concerning the correction and punishment of the aforementioned canons and other persons of the said church... and the aforementioned Prefect Diedius, and his successors, shall be called the rectors of the church. For these rights and duties belonged, according to ancient law, to the Prelate of the Chapter, not so that he might possess, in a depriving manner, the entire care of souls, but because he was the head of the college, as affirmed by the sentence before the Legate, from the Council of Trent and from the authority of Doctors and total jurisprudence: in this sense, the Prelate of the Chapter could be called the Rector of the church. It does not help that the present Prefect of the collegiate church of Figline objects, namely, that it cannot be supposed that the parish priest Diedius, who diligently endeavored to raise his parish to the rank of a collegiate church, intended to limit his authority, and to cede it, as it were. For, from the erection of his parish church into a collegiate church, indeed, the care of souls was transferred to the Chapter, but the authority of the ancient Pleban [parish priest] was increased, so that the Pleban became the Prefect and Prelate of the Chapter, and its head. Otherwise, it cannot be explained how the aforementioned Prefect is called "vacant," and in the same year in which the parish church was erected into a collegiate church, namely, the year 1493, Diedius himself, "formerly a pleban, and now the first Prefect of said prebend and new 'college'," as it is read in the Bicordi chapter register, delivered to the Chapter all the utensils and sacred instruments, directly serving the care of souls, such as a vessel for preserving the chrism and the holy oil, and "all other things will be given in the future to said Chapter." All of these things are confirmed by the statutes of the Chapter of the church of Figline, of the years 1510 and 1614, in which certain norms were imposed for the exercise of the care of souls in the said church. For, in the Constitutions of the year 1510, established with the authority of the entire Chapter, that is, the Prefect and the canons, and approved by the Ordinary of Fesula, chapter XXVI states the following

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concerning the care of souls: "Although the care of souls pertains primarily to the Prefect, and then to the canons, we nevertheless always decree and order that the Prefect and the canons grant the sacristan the authority to administer the sacraments to all who request them, from our parish, and no other canon or chaplain shall intrude, unless particularly requested, except in a case of necessity... or if he has been deputed by the Reverend Prefect and the Chapter... However, anyone may hear confessions." Indeed, since the Prefect and the canons, or the Chapter, have ordered the parish functions through legitimate Constitutions, the sentence before the Legate, supported by the authority of Pignatelli and Lotterii, rightly concludes that the care, at least in appearance, belonged to the Chapter. But it can be added that the statute...

[*Latin ed. p. 24*]

24 Acta Apostolicae Sedis - The official chapter-by-chapter commentary for the year 1510 clearly indicates that the care of souls was exercised promiscuously between the Prefect and the canons; in this case, the entire care of souls, both habitual and actual, indeed without any distinction being made between the habitual and the actual, belonged to the chapter. However, if, from the year 1510, the sacraments were administered to all those requesting them from the parish church of Figline by the sacristan, appointed by the chapter, then the chapter "grants authority to the sacristan." The sacristan administered the sacraments and the care of souls as a vicar of the chapter: that is, possessing only an actual care, while the habitual care remained with the chapter itself. In the Constitutions of the year 1614, chapter XXIV states: "That the 'care of souls, according to the Bull of the erection of our collegiate church, primarily pertains and belongs to the Most Reverend Prefect, if it pleases him, and then pertains to the chapter and the canons according to the tenor of the Bull. In this case, if the aforementioned care should come to the disposition of the chapter at any time, we decree and order that one canon residing, approved by the Bishop and constituted in the priesthood, be appointed for one year, who, if he does not diligently perform his office, may be replaced by another more diligent in his place, and successively confirmed if it is deemed appropriate in the chapter by at least two members, or by the majority, as the chapter pleases, with the gathering of the canons together with the Most Reverend Prefect for the ministry of said care of souls, without any salary or reward, and thus continuously confirmed, or another canon may be chosen by the aforementioned chapter if it is deemed appropriate." Furthermore, from those words "if it pleases him," it is inferred that, until now, the Prefect was not considered obligated to exercise the care of souls, and this is confirmed by the constitutions of the year 1610, in which no mention is made of the Prefect specifically exercising the care of souls, and from the acts of the Pastoral Visitation of the year 1549, in which it is declared that

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(the Prefect) served the care through the canons of said church. Indeed, this could not be explained if the entire care, habitual and actual, belonged to the Prefect, and if he were the true and proper parish priest, and also because it is from the chapter that someone is chosen and appointed for the ministry of the care of souls, no longer as before the Sacristan, but one canon for one year, who could be replaced or confirmed; again, it is confirmed that the care of souls could have been in the disposition of the Chapter, and remained with the Chapter at least habitually. Finally, in the year 1639, the Bishop of Fiesole, Della Robbia, in his decree, stated: "That the care of souls of said collegiate church primarily pertains to the Prefect for the time being; and because said care is so numerous, reaching less than a thousand souls and more, he decreed..."

[*Latin ed. p. 25*]

The Roman See decreed that in the future, and that they ought to be, there would be three individuals to support it, namely, the aforementioned principal and daily administrator, as well as two canons who would be coadjutors to the same. These two canons would, in turn, each week alternate in providing care, and who would be designated by the aforementioned administrator for the time being, and afterwards confirmed in chapter. This decree was approved by the Holy See, but with the provision that the designation of the two coadjutors would be reserved to the entire chapter, a clause by which it is openly acknowledged that the chapter possesses, at least habitually, the care of souls, as affirmed by the authorities cited before the legate. It cannot be said that this decree introduced a substantial innovation regarding the title and property of the care of souls, for the decree of Robbia explicitly adheres to the Bull of foundation by Alexander PP. VI, and to the preceding chapter constitutions, in which the care of souls, whether universal or habitual, was at least recognized and acknowledged by the chapter; and furthermore, the reservation of the designation of the two coadjutors to the entire chapter, and not merely to the administrator, openly contradicts this alleged substantial innovation regarding the title and property of the care of souls.

Nor do those words present a difficulty, in which the administrator is called and is the principal and daily administrator; for "principal" must be understood not in opposition to the Chapter, but in relation to the two canons who are coadjutors, just as the administrator is called the daily administrator in distinction from the aforementioned two coadjutors, who are obligated to alternate in providing care for only one week each, as expressly stated in the aforementioned decree. Therefore, if any innovation was introduced by the decree of Robbia, it was only with regard to the exercise of the care, either in relation to the administrator, or in relation to the canons: in relation to the administrator, to the extent that he no longer exercises the care only if he pleases, but is obligated to exercise it, and

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indeed principally and daily; in relation to the canons, to the extent that they are no longer to be designated as sacristans, as in the constitutions of the year 1510, nor is one canon to be named or confirmed each year, as in the constitutions of the year 1614; but two canons are to be designated who will alternate in providing care for one week each, under the conditions established in the very decree itself. But this innovation with regard to the actual exercise of the care does not prejudice the right of the chapter with regard to the habitual care. Finally, it cannot be said that the constitution of the chapter of Figline was completely and legitimately altered by the decree given in the year 1786 by Bishop Mancini-Raineri, and another given by Bishop Corsani in the year 1883, or by custom, whether it be a custom with a title, or an immemorial custom.

[*Latin ed. p. 26*]

•26 Acta Apostolicae Sedis - Official Commentary: Regarding the decree of the Bishop of Mancini-Ranieri, it must be noted that: 1. It was enacted in execution of a certain *Motu proprio* of Leopold I, Grand Duke of Etruria, with authority entirely incompetent in ecclesiastical matters. 2. However, it must be interpreted concerning the care of souls, so that it may be effective, rather than that it may perish; in this sense, the Bishop himself could not intend to change the nature of the collegiate church, which was permitted only to the Pope. 3. In truth, in the aforementioned decree, only the exercise of the care of souls is regulated: "That the care of the souls of the aforementioned collegiate church of St. Mary of Figline, in addition to the Protopriest for the time being, who, by institution, presides over the exercise of the same, shall also be exercised in fact by two canons of the chapter, with the title of perpetual Vicars, to be chosen by Us and Our Successors, with prior consultation." But since the Protopriest is said to preside over the exercise of the care of souls, it certainly does not follow that the entire care, both habitual and actual, is granted to the Protopriest; moreover, the decree itself clearly adheres to the institution or foundation of the Chapter, and adds: "that the care of souls... shall be exercised in fact in the future also by two canons of the chapter." Therefore, the innovation was made only in this respect, namely, in the title of Vicars, by which the canons are given as coadjutors, and in the manner of their election, to be made by the Ordinary with prior consultation. But, as for the first point, the name does not change the thing; and as for the second, the election by the Ordinary with prior consultation is not a certain and universally applicable argument against the habitual care of the chapter, for it is possible for the chapter to have a habitual right to the care, even if the chapter does not nominate, nor present someone to the benefice to which the exercise of the care pertains: Sacred Congregation of the Council, in Lauden, March 24, 1888. Furthermore, this method of election has not been put into practice. As for custom, it rather favors the chapter, as is evident, among other things, from the right to erect

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a fourth [canonry], which the chapter has always attributed to itself and obtained, from the right to dispose of parochial goods, as is attested by the chapter's decree of the year 1714, from the fact that the chapter has always borne all the expenses of the worship, just as before, and also receives alms from the Protopriest when he celebrates Mass for the people, and from the fact that certain parochial functions, such as blessings over corpses, have been performed by canons, alternately, claiming the fourth [canonry] and other expenses, and also from the fact that all parochial acts have been signed, as before, with the seal of the chapter, as rightly observed in the judgment before Lega.

[*Latin ed. p. 27*]

The Roman Rota, on the 27th, decreed that the decree of Bishop Corsani, against which the canons appealed to the Holy See, principally contains three points concerning: firstly, the habitual care of the chapter, regarding which the first doubt arises; secondly, the destination of the sum recovered from the Government, regarding which the second doubt arises; and thirdly, its administration, regarding which the third doubt arises. Regarding the first point, the decree states: "that four priests, who are indispensable to the Proposto [head of the chapter], must be considered as simple assistants or temporary officials, and removable at the will [of the Proposto]." However, the decree of Bishop Corsani seems to consider the chapter as, by Italian law, legally suppressed; which cannot in any way be proven, for it does not present an impediment that, by law, produces an effect. Therefore, those four priests must be considered as canonical coadjutors or collaborators, according to the terms of the decree of Bishop Della Robbia, and they can be removed only according to the norms of the aforementioned decree; for they hold the care of souls by native right, although dependent on the Proposto, as correctly observed by the opinion before the Lega [court]. Therefore, the opinion of March 17, 1914, must be confirmed in all respects. Having therefore considered and pondered all these things, invoking the name of Christ, We, the undersigned Auditors of Tournon, sitting for the tribunal, and having only God before our eyes, declare and definitively pronounce judgment, responding to the proposed doubt: Affirmative to the first part, negative to the second part, that is, to confirm the judgment of the Rota of March 17, 1914. As We confirm this judgment, We also wish to compensate for the expenses of this third instance. We command the local Ordinaries and the ministers of the tribunals to whom this pertains, to enforce this Our definitive judgment, and against those who resist, to proceed according to the norms of the sacred Canons, and especially chapter 3, session 25, on reform, of the Council of Trent, using the executive and coercive means that they shall judge to be more effective and appropriate for the circumstances.

Rome, in the seat of the Tribunal of the Holy Roman Rota, on July 9, 1915.

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Aloysius Sincero, Presiding.
Joseph Mori.
Frederick Cattani.
L. S.
From the Chancery of the Holy Roman Rota.
Sac. T. Tani, Notary.

[*Latin ed. p. 28*]

Acts of the Apostolic See - Official Commentary

II. CASES CLOSED IN SECRET

In the Holy Roman Rota, from the month of December of the year 1914 to the month of December of the year 1915, the following cases were heard in secret, and the definitive judgment is published:

I. NULLITY of the marriage, solely in the dispositive part, due to a defect of consent due to a shameful condition imposed.

The question proposed: Whether there exists a nullity of the marriage in the case, R. R. P. P. D. D. I. Prior, presiding, and A. Perathoner and P. Rossetti, Auditors of Tournon, on December 10, 1914, judged: Negatively. An appeal was interposed against the judgment.

II. NULLITY of the marriage due to a defect of consent due to a condition imposed.

The question proposed: Whether there exists a nullity of the marriage in the case, R. R. P. P. D. D. I. Mori, presiding, and F. Cattani and A. Perathoner, Auditors of Tournon, on January 13, 1915, judged: Negatively. An appeal was interposed against the judgment.

III. NULLITY of the marriage due to a defect of consent on the part of the woman.

The question proposed: Whether there exists a nullity of the marriage in the case, R. R. P. P. D. D. S. Many, presiding, and F. Heiner and I. Prior, Auditors of Tournon, on March 9, 1915, judged: Negatively. An appeal was interposed against the judgment.

IV. NULLITY of the marriage due to the impediment of affinity.

The question proposed: Whether there exists a nullity of the marriage in the case, R. R. P. P. D. D. A. Sincero, presiding, and I. Mori and F. Cattani, Auditors of Tournon, on March 23, 1915, judged: Negatively. An appeal was interposed against the judgment.

V. RIGHTS.

The following questions were proposed:

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1. What rights do belong to the priest X. X. in the church of the Blessed N. N., founded by Y. Y., whether as founder, as patron, or by any other title?

2. What compensation or reimbursement is due to the priest X. X., either for the rights of which he is deprived, or for the expenses incurred for the construction of the aforementioned church, in the following case: R. R. P. P. D. D. A. Perathoner, presiding, and I. Alberti and P. Rossetti, Auditors of Tournon, judged on March 27, 1915: Regarding 1. The priest X. X. has the right of patronage in the church of the Blessed N. N., founded by Y. Y., so that, among other things, he may...

[*Latin ed. p. 29*]

29. In Montana, all non-parochial functions are to be performed there. 2. It pertains to the Reverend Father X. X. to determine the compensation for damages in a separate hearing, except for strictly judicial expenses, which are retained by the parties to be compensated. An appeal has been interposed against the judgment.

VI. NULLITY OF MARRIAGE on the grounds of clandestine marriage and impediment of "force and fear."

Proposed question: Does the nullity of the marriage exist in this case? The Reverend Fathers, DD. A. Sincero, presiding, I. Mori, and M. Cattani, auditors at Tournon, on April 9, 1915, judged that: No. An appeal has been interposed against the judgment.

VII. NULLITY OF MARRIAGE due to simulated consent on the part of the husband.

Proposed question: Does the nullity of the marriage exist in this case? The Reverend Fathers, DD. A. Perathoner, presiding, I. Alberti, and P. Rossetti, auditors at Tournon, on April 21, 1915, judged that: No.

VIII. NULLITY OF MARRIAGE on the grounds of clandestine marriage and impediment of "force and fear."

Proposed question: Does the nullity of the marriage exist in this case? The Reverend Fathers, DD. A. Sincero, presiding, I. Mori, and F. Cattani, auditors at Tournon, on April Ö, 1915, judged that: No. An appeal has been interposed against the judgment.

IX. NULLITY OF MARRIAGE on the grounds of force and fear.

Proposed questions: 1. Does the nullity of the marriage exist in this case? 2. To what extent?

Proposed question: 2. Should the Most Reverend be advised regarding a dispensation concerning a marriage that is valid but not consummated in this case? The Reverend Fathers, DD. I. Mori, presiding, F. Cattani, and A. Perathoner, auditors at Tournon, on April 27, 1915, judged that: To 1. It will be provided in 2°; to 2. Affirmative, that is, the Most Reverend should be advised regarding a dispensation concerning a marriage that is valid but not consummated in this case.

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X. NULLITY OF MARRIAGE on the grounds of force and fear, and on the grounds of affinity.

Proposed question: Does the nullity of the marriage exist in this case? The Reverend Fathers, DD. F. Cattani, presiding, I. Alberti, and P. Rossetti, auditors at Tournon, on June 19, 1915, judged that: Affirmative.

XI. LBG-ATI P II.

Proposed questions: 1. Is the request of the Reverend Father N. N. for the principal intervention of the Pius Institute X. X. to be admitted? 2. Does the Reverend Father N. N. have the right to a counter-claim according to the law? The Reverend Fathers, DD. I. Mori, presiding, F. Cattani, and P. Rossetti, auditors at Tournon, on June 25, 1915, judged that: To both, No.

[*Latin ed. p. 30*]

30 Acta Apostolicae Sedis - Official Commentary XII. OF PROPERTY. The following questions were proposed: 1. Whether the house in question is burdened with pious obligations. And, to the extent that the answer is affirmative: 2. What obligations are incumbent upon both parties in the dispute, namely, the Reverend Fathers and Doctors, S. Many, Ponens, I. Prior, and F. Cattani, Auditors at Tournon, on June 28, 1915, responded as follows: To 1. Affirmative. To 2. The house in question is to be relinquished free and clear, for use in parochial pious purposes; and, with regard to the transfer of the house, all matters are to be conducted under the mandate of the Bishop. The Reverend X. X. is to use all diligence, according to the mind of the Bishop, to ensure that N. N. fulfills the aforementioned obligations; finally, the Episcopal Curia is to be obligated to indemnify N. N., refusing him the previously offered sum of t. t. livres, along with the expenses of the sale, and the extraordinary expenses incurred by him on the house, and, from the date of the execution of the sentence, to pay all taxes and other burdens imposed upon the house, as well as the expenses of related contracts. An appeal was lodged against the judgment. XIII. OF DEFAMATION. The following questions were proposed: 1. Whether defamation is present in the case, so that a penalty may be imposed; 2. Whether there is a basis for compensation for damages, and if so, in what manner and to what extent. The Reverend Fathers and Doctors, G. Sebastianeiii, Dean, Ponens, S. Many, and R. Chimenti, Auditors at Tournon, on July 29, 1915, responded as follows: Negatively to both. An appeal was lodged against the judgment. XIV. OF THE NULLITY OF MARRIAGE due to lack of consent on the part of the woman. The following question was proposed: Whether the Royal judgment of December 18, 1913, should be confirmed or overturned in this case. The Reverend Fathers and Doctors, I. Prior, Ponens, A. Sincero, and I. Mori, Auditors at Tournon, on August 6, 1915, responded as follows: Negatively to the first part, and affirmatively to the second part, that is,

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there is no basis for the nullity of the marriage in this case. An appeal was lodged against the judgment. XV. OF THE NULLITY OF MARRIAGE due to lack of consent regarding the essence of the marriage, and due to a turpis condition contrary to the substance of the marriage. The following questions were proposed: 1. Whether the Royal judgment of November 29, 1913, should be confirmed or overturned in this case; 2. Whether there is a basis for the nullity of the marriage due to an intention contrary to the substance of the same. The Reverend Fathers and Doctors, G. Sebastianeiii, Dean, Ponens, S. Many, and R. Chimenti, Auditors at Tournon, on December 15, 1915, responded as follows: To 1, Affirmative to the first part, and Negative to the second part; To 2, Negative.

[*Latin ed. p. 31*]

From the *Diarium Romanae Curiae* (Journal of the Roman Curia), Secretariat of State:

By means of tickets from the Secretariat of State, the Holy Father has deigned to appoint:

January 16, 1916. — His Eminence, Cardinal Giulio Tonti, Protector of the Institute of the Sisters of Christian Schools of Mercy of Saint-Vicomte.

January 17. — His Eminence, Cardinal Gennaro Granito Pignatelli di Belmonte, Protector of the Congregation Urbana of Noble Courtiers in S. Lo.

By Apostolic Briefs, the Holy Father has deigned to appoint:

Assistant to the Pontifical Throne: December 23, 1915. — Monsignor Agostino Dontenwill, titular Archbishop of Tolemaide, Superior General of the Congregation of the Oblates of the Immaculate Mary.

Referendary Prelate of the Sacred Congregation: December 20, 1915. — Monsignor Ghino Ghini, of the diocese of Cesena.

Domestic Prelates of His Holiness: December 30, 1915. — Monsignor Aurelio Mazza, parish priest of Curti in the archdiocese of Salerno. — Monsignor Giovanni Mac Dermott, vicar general of the archdiocese of St. John's, Newfoundland.

[*Latin ed. p. 32*]

Acts of the Apostolic See - Official Commentary

HONORS

With Brief Apostolical letters, the Holy Father deigned to bestow the following honors:

Knighthood of the Order of Pius: December 29, 1915. – To Mr. Augusto Grossi-Gondi, of Rome.

The Order of Saint Gregory the Great, civil class: December 20, 1915. – To Mr. Knight Giovanni Asproni, archivist of the Secretariat of State.

The Order of Saint Gregory the Great, military class: December 21, 1915.

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– To Colonel Carlo Edmondo Rouleau, of the Archdiocese of Québec.

The Grand Cross of the Order of Saint Sylvester the Pope: December 24, 1915. – To Mr. Count Stanislao Medolago Albani.

Knighthood of the Order of Saint Sylvester the Pope: December 30, 1915. – To Mr. Doctor Giuseppe Ciuti, of Florence.

NECROLOGY

January 10, 1916. – Monsignor Riccardo Scanneil, Bishop of Omaha (United States).

January 12. – Monsignor Cirillo Gena, Patriarch of Antioch of the Greek Melchite rite.

January 13. – Monsignor Basilio Hossu, Bishop of Armenopoli.

January 17. – Monsignor Nicola Giuseppe Cannili, Archbishop-Bishop of Jassi.

[*Latin ed. p. 33*]

Year VIII - Vol. VIII, February 2, 1916, No. 2. ACTA APOS TOLICAE SEDIS, COMMENTARIES OFFICIALES. BENEDICT XV, POPE. LETTER TO THE MOST ILLUSTRIOUS SIR, ALOISIUS, MARQUIS D'HENDECOURT, PRESIDENT OF THE CONGREGATION OF THE VIGILANTES, CONCERNING LETTERS WHICH DESCRIBE THE PROSPEROUS CONDITION OF THE SOCIETY, OFFERING THANKS.

Beloved Sons, health and the apostolic blessing.

Charity never ceases, but, as We have learned, it grows ever more intense day by day from the very miseries and calamities themselves; and these letters, which you sent to Us on previous occasions, have excellently confirmed this, informing Us of the increased number of Conferences in recent years, and of their manifold charity.

Indeed, beloved Sons, We acknowledge that these joyful things, which you have recounted in your writings, are to be attributed to God, so that His praise may not fail your diligence; and We gladly bestow this praise upon you, all the more because We see that you are eager to contribute to this most beneficial and salutary work, and to extend its benefits more widely, as time and necessity demand.

We are indeed living in times that require the most active expression of Christian charity; but We desire that you, as sons of light, may be an example to others, so that they may not merely offer human kindness, but may look to higher things, and may be drawn to the love of God, and even to the sweetness of Christian brotherhood, and may be compelled by the benefits they receive.

ACTA, Vol. VIII, No. 2. February 14, 1916.

[*Latin ed. p. 34*]

34 Acta Apostolicae Sedis - Official Commentary. But it is Our will that

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you and your associates, as children of the light, walk in a manner worthy of the calling you have received, proving what is pleasing to God, and that you do not participate in works that are fruitless; this has been so clearly observed by Us, that We scarcely admit of any need to offer further exhortation. There is only one thing of which you stand in need, namely, the aid of divine grace; and that you may abound in it more and more each day, to you all, beloved sons, and to all others who are members of the Vincentian Congregation throughout the world, We impart Our apostolic blessing, a pledge of Our benevolence, with the most fervent will. Given in Rome, at St. Peter's, on the thirty-first day of January, in the year 1916, in the second year of Our Pontificate. BENEDICTUS P. P. XV.

[*Latin ed. p. 35*]

Most Holy Congregation Consistorial.

I. ERECTION OF AN APOSTOLIC VICARIATE WITHIN A DIOCESE.

His Most Holy Lordship, Pope Benedict XV, by decree of the Most Holy Congregation Consistorial, dated January 7, 1916, erected the Apostolic Vicariate of Temiskamingue, within the territory of Canada, as a vicariate within the diocese, maintaining the same territorial boundaries as before; and He ordered that it be named Haileyburense, and that it be made a suffragan of the Metropolitan Church of Ottawiensi.

II. CONCERNING THE LIMITS OF THE ARCHDIOCESE OF HYDRUNTINA AND THE DIOCESE OF LYCIENSIS.

His Most Holy Lordship, Pope Benedict XV, by a Consistorial decree dated November 25, 1915, in order to remove certain inconveniences arising from the double spiritual jurisdiction in the town of St. Caesari, to the extent that part of the aforementioned town of St. Caesari, together with the adjacent territory which was previously subject to the Archdiocese of Hydruntina, was separated from the Archdiocese and permanently united to the Diocese of Lyciensis, namely, so that the civil boundaries of the municipality of St. Caesari in the future shall constitute the limits of both the Archdiocese of Hydruntina and the Diocese of Lyciensis.

[*Latin ed. p. 36*]

36 Acta Apostolicae Sedis - Official Commentary III

PROVISIONS FOR CHURCHES

By the decrees of the Sacred Consistorial Congregation, Our Most Holy Lord Benedict, Pope, XV, has provided for the following churches, namely:

January 2, 1916. — To the titular episcopal church of Eudoxias, he appointed the Reverend John Pinardi, a parish priest in the city of Turin,

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whom he appointed as an Auxiliary to the Most Reverend Cardinal Augustine Richelmy, Archbishop of Turin.

January 29. — To the cathedral church of Lead, he appointed the Reverend Father John Jeremiah Lawler, already the titular bishop of Herrnopolitan and Auxiliary to the Archbishop of St. Paul of Minnesota.

January 31. — To the cathedral churches of Waterford and Lismore, he appointed the Reverend Bernard Hackett, C.SS.R., superior of the house of the Redemptorists in Limerick.

January 31. — To the titular episcopal church of Sasim, he appointed the Reverend Aemilius Bongiorni, the general vicar of Brescia and the parish priest of the rectory of St. Nazarius, whom he appointed as an Auxiliary to the Reverend Father Hyacinth Gaggia, Bishop of Brescia.

January 31. — To the cathedral church of Dromore, he appointed the Reverend Edward Mulhern, the parish priest of Innismacsaint in the diocese of Clogher.

SACRED CONGREGATION FOR THE DISCIPLINE OF SACRAMENTS AND CANON LAW

Since in certain regions, pastors are gravely prohibited by civil law from assisting at marriages, unless a civil marriage has been previously celebrated, which cannot always be obtained, and yet, for the prevention of evils and for the good of souls, it is expedient to celebrate marriages; certain of these pastors have requested the Sacred Congregation for the Discipline of Sacraments: "How and in what manner should provision be made in these circumstances?"

[*Latin ed. p. 37*]

The Holy Congregation for the Discipline of the Sacraments, in its plenary session held on January 28th of the current year, after mature deliberation, decided to respond as follows: "In each case, except in the case of mortal danger, in which any priest may dispense even from the impediment of clandestine marriage, permitting that in the aforementioned circumstances, the marriage may be validly and licitly contracted with only witnesses." The declaration of the Most Holy Pope Benedict XV, which had been presented, was approved and confirmed by His Holiness in an audience granted on the 30th of the same month to the undersigned Secretary of this Holy Congregation, and it was ordered to be made public. Given in Rome, from the offices of this Holy Congregation, on January 31, 1916. PHILIPPUS CARD. GIUSTINI, Prefect. L. S. Aloisius Capotosti, Episcopal Vicar, Secretary.

HOLY CONGREGATION FOR THE ORIENTAL CHURCH.

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March 27th and June 19th, 1915.

Statement of the case. – The matter concerning the Cathedral Church of Orita is not new to this Holy Congregation. Since, at the plenary assemblies held on May 31st, 1902, several proposals were made to amend the old statutes that governed it, so that they might be adapted to the present circumstances, the Bishop, and the Chapter, defending their rights (as is clearly stated in volume CLXII of the Treasury of Resolutions of the Holy General Congregation, pages 490-514), gave the following response: "The temporary ordinances issued by the Bishop are to be maintained, and in the meantime, the Chapter shall draw up canonical constitutions that are most suitable to the present needs of the Church; and with this in mind..." The intention of the Ordinary, which was communicated to him by letter, was as follows: "That Your Eminence should prefer local clergy to foreigners, to whom benefices should not be conferred unless there is a true necessity; and if, perhaps, only for a short time, there was a need..."

[*Latin ed. p. 38*]

38 Acta Apostolicae Sedis - Commentarium Officiale: "Ut aliquis civis idoneus ad vacante beneficio occupandum designetur, melius erit illi prae ceteris illud beneficium conferre, dummodo non sit indignus, licet vacatio ultra sex menses esset producenda. Praeterea, haec Amplitudo Tuae indulgentiae animis mitigandis plurimum iuvare poterit." Animi enim, non modo Capitularum, sed etiam populorum, acerbius fuerant commoti, propterea quod, temperato veterum statutorum rigore, beneficia, seu participationes in Cathedrali, in casu necessitatis, etiam non civibus (quo civium nomine ii tantum prius intelligebantur "i cui patres 'saranno stati cittadini per lo spazio di 40 anni continui'") conceder entur; et quidem ita, ut, dum cives per diuturnum plurium annorum tyrocinium gratuitum suae Ecclesiae inservire tenebantur, clericalis militiae initio, sacerdotes non cives post annum solummodo gratuiti servitii ad plenam participationem admitterentur. At quidem, cum huiusmodi mitigationes iussisset omnino urgens necessitas proveniens ex penuria clericorum, propter quam in ea Ecclesia vacantibus beneficiis aliter provideri non poterat, eadem novis statutis conditis per Capitulum ac approbatis per Episcopum anno 1905 insertae fuerunt. Haec in Oritano Capitulo vigebant, cum per bullam Episcopalem, die 16 decembris 1913, quidam sacerdos N. N., ortus in L. oppido eiusdem dioecesis, inter canonicos ecclesiae cathedralis cooptatus est beneficioque potitus "cum omnibus iuribus et oneribus" die 21 eiusdem mensis. Elapso vero semestri, cum missae communis divisio fieret, petiit et ipse ad participationem admitti; sed eius petitionem Capitulum per maiorem suffragiorum numerum reiecit, ea de causa quod servitii gratuiti annus adhuc decurreret. Hanc causam minime iustam agnoscens, sed utpote contrariam iuri et canonicae aequitati arguens, idem canonicus ad hanc Sacram Congregationem querelam detulit, misso supplici libello quo

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petiit declarari: "An canonicus N. N. admitti debeat ad participationem omnium proventuum capitularium a die captae possessionis beneficii, vel post annum, expleto servitio gratuito, in casu." Synopsis disceptationis. 1. Argumenta favore recurrentis allata. Ad intentionem suam obtinendam, recurrens duplicem circumstantiam facti animadvertendam dicit: in primis, quod fructus integri anni servitii gratuiti, in casu, non cedunt in bonum fabricae, seu ecclesiae aut locorum piorum, sed directe et exclusive in utilitatem Capitularum, quorum quisque ex his fructibus portionem suam auget. Alterum, quod servitium gratuitum exigitur in casu praestandum non ante, sed post captam possessionem beneficii, ut ex facti specie plane elucet. Porro ex hac utraque...

[*Latin ed. p. 39*]

The Holy Congregation of the Council contends that, in certain circumstances, the provision of gratuitous service falls under the prohibition of the law of Trent, chapter 14, session XXIV concerning reforms, a position confirmed by the constitutions of Pius V, *Durum nimis*, of May 31, 1570; Innocent XII, *Ecclesiae*, of September 22, 1695, and also by numerous resolutions of the Holy See. Therefore, this Holy Congregation infers that such gratuitous service, under these specific circumstances, was not approved by its general rescript of May 31, 1902, but rather disapproved of, since it was concerned with reforming the constitutions "so that they may fully respond to the needs of the Church today." Indeed, in the aforementioned chapter of Trent, after the well-known principle of law, "that ecclesiastical benefices be conferred without diminution" (title 12, book III, Decretal), are broadly condemned customs and statutes, according to which "in the election, presentation, collation, or other provision, or admission to the possession of any cathedral church, or benefice, canonry, or prebend, or part of the revenues, or for daily distributions, certain conditions, or deductions from the fruits, solutions, or promises are interposed." Similarly, Saint Pius V decreed in the aforementioned constitution, § 2, concerning "vacant ecclesiastical dignities, canonries, prebends, portions, benefices, etc."

Furthermore, Doctors who interpret this Tridentine law generally concede that it does not apply in two cases: 1) when a portion of the fruits of the first year of the benefice is applied to the fabric of the church, or to some other pious cause; because in that case, the reason for the law ceases to exist, namely, to prevent "whatever may suggest suspicion of simony or sordid avarice" from being introduced upon the collation of benefices, as stated in the aforementioned texts; 2) when gratuitous service is rendered before the collation or actual possession of the benefice, namely, in the manner of a curacy; in which case, the fruits of the benefice, still actually vacant, can properly increase the chapter's funds, as is evident, and among others, Fagnanus, in III, Decr., De Praeb., cap. Dilectus, I, n. 6; Pignatelli, Consult, vol. III, c. 30, n. 9, and vol. IX, c. 115, n. 14-15; Garcia, De benef. p. XI, c. V,

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n. 16-18; Barbosa, De Can. et Dign. c. XV, n. 22, who also gives the reason: "For, upon the taking of possession of a church or canonry, possession is considered to be taken of all goods, fruits, appurtenances, and rights"; De Luca, De Can. et Cap. disc. 17, n. 1-5; and Ferraris, v. Canonicatus, art. II, n. 39-41.

This Holy Congregation does not seem to interpret the Tridentine laws in the same way, having repeatedly renewed and applied the prohibition of receiving anything, even in the form of a gratuitous service, upon the institution of new canons, as in Cassanen., December 3, 1718; Brugen., August 13, 1729; Leodien., July 19, 1777 (in Pallottini, v. Canonici, III, 182), and more recently in Potentina, July 16, 1898, and May 21, 1904; and in S. Angeli Lombardos, June 28, 1913 (cf. Monit. Eccles., XVI, 150; XXIII, p. 274).

[*Latin ed. p. 40*]

40 Acta Apostolicae Sedis - In the official commentary, it should be noted that, furthermore, these recent decisions pertain to the particular law concerning recipient churches (such as Oritana), following the Brief of Pope Pius VII, *Impensa*, dated August 13, 1819, and the subsequent Instructions to Bishops, dated November 18, 1822, by virtue of which the statutes concerning the obligation to provide free service, in the Kingdom of both Sicilies, were gradually abolished. Given these circumstances, the recurring canon argues that the provisions of the Ordinary of Oritana, which were confirmed in 1902 by the Holy Congregation, only concerned the service rendered *prior* to the collation and acquisition of the benefice, and not any service to be rendered *gratis* after the acquisition of possession. He seeks to confirm this with certain passages in the recent statutes, where the language refers, not to a canon, but to a cleric or candidate; indeed, when referring to a foreign priest, it is explicitly stated: "that the strict obligation to provide free service, *before* having the right to participate, will be reduced to one year, after which he will take possession and wear the insignia." Therefore, he argues, the intention of this Holy Congregation in confirming these statutes could not have been anything other than to simply approve the service rendered *prior* to the possession of the benefice. However, the service that the Capitulars demand refers to a period of one year *from* the date of acquisition of possession, which occurred on December 21, 1913; therefore, this service cannot be enforced by invoking the decision of this Holy Congregation in the case of Oritana, dated May 31, 1902; rather, it should be considered to fall under the prohibitive canon of Trent.

2) Arguments presented in favor of the Chapter. - However, a different opinion seems to be warranted if we consider the underlying principle, which is undoubtedly the crux of the controversy, namely, if we consider the nature of the Chapter, and the revenues to which the recurring canon requests to be admitted in order to participate. For, it is established that

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the Chapter in question, namely, the cathedral church of Oritana, was originally intended to be associated with recipient churches in numerous ways: "whose constitution - as has been observed in the cited document, folio Oritana, in the Treasury, CLXII, page 490 - aimed primarily at two things: first, to admit all citizens who are members of the sacred militia, each according to the degree of their ordination, to provide service in the church of their origin; second, to examine the morals of the clergy, because these were not admitted to obtain canonical positions when they were vacant, nor to participate in revenues, unless they had completed their training in the performance of sacred duties and had proven their vocation. With these arrangements, the number of clergy would not be excessive, nor could the hope of profit unduly attract candidates to the clerical militia": which objective is considered not only opportune but also necessary.

[*Latin ed. p. 41*]

The Holy Congregation of Councils decreed in times past, when a great multitude of aspirants to the sacred order was found to be present. To achieve this purpose, laws and customs of no small rigor were established in the Oritano Chapter: indeed, they did not admit to participation in any revenues, unless "only those sons of fathers who shall have been citizens of this city for the space of forty continuous years"; who had completed nine years of study free of charge, serving four years in minor orders, two in the subdiaconate, two in the diaconate, and one in the presbyterate; moreover, the acceptance of clerics could not take place each year except on one day, the 25th of July. Considering these things, it seems easily demonstrated that such a church, even if a cathedral, lacks the true and proper nature of a chapter, in the sense of the law, and forms only a certain association of ecclesiastical men, established by particular statutes, which those who are chosen to be co-opted into this society freely embrace. This is also confirmed if one considers the nature of the revenues that were distributed to the ecclesiastical men who were co-opted into these positions: for they consisted almost entirely of pious bequests, or offerings made by the faithful for the celebration of Masses, anniversaries, or similar occasions, lacking entirely a canonical endowment or establishment in the form of a benefice; so that such revenues are in no way suitable or able to be adorned with the title of a benefice according to canonical law (Cf. also Gennari, *Cons. Can.*, XXXIV, n. 3). The same was understood by the illustrious canonist De Luca, who was very knowledgeable in this matter, and wrote from his own experience (De Canon. et Capit., disc. XVII, n. 4): "Such a mass is truly and properly not composed of the fruits and endowments of the Canons or Benefices themselves, which were so laudably dedicated to the greater glory of the Church and to divine service, which otherwise would have been neglected, and brought into the form of daily distributions, through apportionments (as, for example, are the Masses of the Basilicas of the City,

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derived from the fruits of houses and other properties granted by concessions from the Popes and Emperors and other Princes); but rather, they come mostly from pious bequests and other dispositions with the burden of Masses and anniversaries, and as if in the form of a certain Society, or communion of Clerics, established and introduced among themselves, without any particular reason of benefice or dignity; so that these dignities were then erected for a certain greater honor of the Church, without altering the status of the aforementioned mass."

[*Latin ed. p. 42*]

42 Acta Apostolicae Sedis - Official Commentary: "Solemn honors and even certain greater emoluments are bestowed in daily and minor distributions, instead of providing [a stipend] or fruits, as if in Dignities rather than true benefices; and consequently, he who wishes to be admitted to the Society is bound to observe and fulfill the laws and statutes of the Society, and to perform those things which others have performed or will perform, in order to maintain equality among the members." Since these things are so, if indeed neither the ecclesiastical office is to be considered a true benefice, nor are the portions distributed to the participants to be called true benefits, it seems entirely lacking in the matter upon which the prohibition of the law of Trent, chapter 14, session XXIV, concerning reforms, is based; rather, the principle clearly enunciated by De Luca seems to prevail: "He who wishes to be admitted to the Society is bound to observe the laws and statutes of the Society, and to fulfill those things which others have performed, or will perform, in order to maintain equality among the members." This is further confirmed by the fact that, from the Council of Trent to our own time, the custom of gratuitous service has prevailed and continues to prevail in many churches, even collegiate and cathedral churches, with the Apostolic See being aware of it and not contradicting it; then by the authority of Doctors, who unanimously express this opinion, as Ferraris shows, *De Canonicatus*, II, 39 ss.: "In the aforementioned decree of the Council of Trent and in the bull *Durum nimis* of St. Pius V, the statutes and customs concerning serving for a year or some time, and receiving anything from the principal fund only after the complete performance of said service, are not included" (cf. also De Luca, *loc. cit.*, n. 5); and finally, by reason, because, since the prohibition of the law of Trent is explicitly ordered "to prevent anything that might give rise to suspicion of simony or sordid avarice," it clearly prohibits that prestation which the newly appointed [beneficiary] is, as if by agreement between himself and the collators, obliged to make on the occasion of the collation; therefore, it is not a prestation entirely independent of the will of the beneficiary, but rather a burden, by force of statutes or customs, which affects the benefice, or rather, the provent of the benefice. - Nor does anything contradict this, that such revenues are ceded to the benefit of the other canons; because the efficient cause of this circumstance

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is not the pact or will of the beneficiary, but the general law applying to any vacant benefice. Furthermore, Barbosa, *De can. et dignit.*, chapter XV, n. 34, cites a decision of the Sacred Congregation in which "it was debated whether the custom of the Church of Ästen, that the fruits belong to the Chapter until the beneficiary is a priest, should be observed. And the Sacred Congregation, on May 6, 1617, decided that such a custom is valid, because the intention of the Council was that nothing should be received as a result of the collation." Cf. also another case reported by De Luca, *loc. cit.*, discussion XVII.

[*Latin ed. p. 43*]

The Holy Congregation of the Council decrees: Not only was the custom of providing gratuitous service preserved after the Council of Trent, but also after numerous and considerable reforms introduced in the ecclesiastical institutions of both Sicily, following the celebrated Brief *Impensa* of Pope Pius VII, dated August 13, 1819. From this, it is already clear that such a custom was not abolished or disapproved by that reform. Moreover, if in the aforementioned *Brief Impensa* it is stated, "Whenever someone is to be assigned to a portion of jurisdiction granted in the ecclesiastical institutions, a sample of his talent and character must be taken into consideration beforehand... and an examination must be held before the Ordinaries," etc.; this does not seem more incompatible with the provision of gratuitous service than any danger or experiment would be with a proper period of training or curriculum. Therefore, this kind of service cannot in any way be considered abolished by the clauses that render it null and void and derogate from it, as stated in that Brief (cf. Gagliardi, *De Beneficiis Ecclesiasticis*, Additions to Vol. I). Furthermore, if the Holy Congregation of the Council sometimes, in its decisions, disapproves of gratuitous service, this, if true, would not apply in every case. Indeed, all readily concede that the opportunity or necessity of this preliminary training depends greatly on the circumstances of the times and places, and especially on the scarcity or abundance of those who aspire to the clerical vocation. Hence, it can happen that, while in some places and at some times, the burden of providing gratuitous service "laudably preserves the civic prerogative, since, without participation in the Mass, outsiders, or those citizens who do not have the necessary qualifications, do not seek these canonries without remuneration, and therefore the observance of such statutes is praiseworthy" (loc. cit., n. 5); in other places and at other times, especially in our own, such observance presents a serious, indeed very serious, impediment to the provision of a sufficient number of clergy to serve the honor of divine worship or the benefit of souls. Furthermore, the resolutions that are most often cited in this case, namely those of St. Angelo dei Lombardi, June 28, 1913, and Potenza, July 16, 1898, are very different from our case, as will be readily apparent to anyone who examines and compares them. In the

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first, the matter concerned a burden imposed on neo-canonicals, namely, to relinquish to the other capitulars half of the fruits of the first year from the revenues granted; which seems to be something that cannot escape the prohibition of the Council of Trent. In the second, the resolution concerned a certain priest who, although he had provided gratuitous service for ten years, was nevertheless unjustly refused admission as a canon by the other capitulars. Nor does it help to cite the resolution of the Holy Congregation of the Council in the aforementioned ordinance of May 31, 1902, or the Episcopal Bull, in which it is said that a canonry is to be conferred with full rights. Moreover, it is easily demonstrated...

[*Latin ed. p. 44*]

44 Acta Apostolicae Sedis - Commentarium Officiale: The merit pertaining to the exemption is restored. Indeed, although it is granted as a probable custom regarding the gratuitous service, it can be understood to some extent that the exhortation to enact "capitular constitutions which most closely respond to the needs of the Church today" is included; nevertheless, it is certain, and beyond all doubt, that what was repeatedly assumed is this: that the aforementioned statutes or "ordinances" concerning which the Sacred Congregation explicitly decreed, sustain the prescription "that when a priest from outside is appointed, before having the right to participate, the period of gratuitous service will be 'reduced to one year'"; this prescription was inserted and repeated verbatim in the new statutes established by the Chapter and approved by the Bishop in the year 1905. Therefore, if the Bishop truly intended – which is not easily conceded – to establish a canonical provision and to invest [the priest] with [the benefice], with the same "right to participate," he would have exceeded the limits of his power and, consequently, would have acted ineffectually, at least in this part concerning the exemption from the gratuitous service, because he lacked the authority to do so by himself, but rather he should have sought the permission of the Apostolic See, whose authority sustained the contrary provision. Resolution. – After considering the arguments presented by both sides, the judgment of the Most Eminent and Reverend Fathers [of the Sacred Congregation] considered it necessary to resolve the doubt: "Whether canon No. N. should be admitted to participate in the capitular revenues from the day of the acquisition of the benefice, or after one year, after having completed the gratuitous service in this case." And the Sacred Congregation, after discussing the matter repeatedly in plenary sessions, decided on June 19, 1915, to respond: "Negatively to the first part; affirmatively to the second part; and the reasoning is: 'The Sacred Congregation desires that the capitular constitutions be more in conformity with the decree issued on May 31, 1902, so that they may most closely respond to 'the needs of the Church today, which seem to require the abolition of the gratuitous service 'in certain cases.'" This resolution was approved by Our Most Holy Father

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Benedict, Divine Providence, Pope XV, in an audience afterwards granted to the undersigned Secretary. O. GIORGI, Secretary.

[*Latin ed. p. 45*]

In the Acts of the Roman Rota, Volume 45, of the Roman Rota Tribunal, Parisien Case. Concerning the Nullity of Marriage (PIC-GARREAUD). Under the blessed reign of Benedict XV, in the first year of his pontificate, on the 21st of May, 1915, the Most Reverend and Most Learned Fathers, John Prior, Ponens, Aloysius Sincero, and Joseph Mori, Auditors from Tournon, in the Parisien case concerning the nullity of marriage between Helen Garreaud, represented by her legitimate procurator, the advocate Vincent Sacconi, and Aemilius Pie, having heard the arguments presented by the Defender of the Bond ex officio, rendered the following definitive judgment in the first instance. Agatha Mary Bazin, having been widowed and leaving behind six daughters from her marriage, had the desire that each of them, as soon as possible, should be married. Helen, the fourth daughter, having reached the age of twenty, was presented with Aemilius Pie as a potential husband. This proposal, however, did not please Helen, as she repeatedly told her mother; but, after her mother insisted, she finally yielded, and she was lawfully married to this man on the 12th of August, 1899. For thirteen years, the married life continued, after which the woman petitioned for a civil divorce, which she obtained; and then she instituted a case in the ecclesiastical court, having obtained from the Pontifical Commission that the case be heard before the Most Holy Order in the first instance, in order to obtain a declaration of the nullity of the marriage on the grounds of violence and fear. Therefore, the question to be resolved is: Does the nullity of the marriage exist in this case? In law. – It suffices to briefly indicate the legal principles, well-known in this matter, which are extensively explained in other judgments of the Most Holy Order, even recent ones (Cf. Parisien, before Many, on March 18, 1911; Lugdunen, before).

[*Latin ed. p. 46*]

46 Acta Apostolicae Sedis - Official Commentary, dated June 18, 1912; Rome, before the Prefect, dated November 28, 1913). From the well-known chapter "Cum locum" 24 concerning betrothals, as well as from chapters 15 and 28 of the same title, the Doctors conclude that, if a grave fear, unjustly caused by external factors, is used to extort consent to marriage, the marriage is, at least according to ecclesiastical law, invalid. Reverential fear, or the anticipated evil that we fear from those who have power over us (d'Annibale, vol. I, n. 138, note 16), is of itself mild, and therefore does not invalidate the marriage. However, it can become grave when, considering all the circumstances, it must be said that the person experiencing the fear, having been compelled by the authority of the father, mother, or other superior, has given consent to the marriage. The Authors teach

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that this case ordinarily occurs when threats are used, or even persistent and importunate requests, which virtually contain threats, to overcome the resistance of the daughter. However, a simple legal rule cannot be given to resolve all doubts in a specific case, as is evident from the instruction of the Holy Office dated June 20, 1883. First, it must be noted that the daughter should not be considered to have married unwillingly if she entered into the marriage to please her mother or another superior (d'Annibale, op. cit.). Parents can also exert a moderate degree of coercion, as taught by Sánchez, book 4, disp. 23, n. 12, at the end. However, when coercion appears to have exceeded due limits, it must be established whether the person experiencing the fear took any measures to free herself from the coercion of the parents. Regarding the matter cited, the instruction of the Holy Office (n. 37) states: "It must also be investigated what this person 'did' to free herself from the coercion of the parents; whether she offered prayers; whether she used the services of others to dissuade the parents; whether and how she expressed her aversion and opposition to the marriage; whether and how she behaved, whether when preparations for the marriage were being made, or when she was being urged to consent, or after she had given her consent; ... whether, in all these circumstances, she was cheerful, prompt, and joyful, or otherwise. Her conduct towards the other party, and towards the family of that party, must also be considered; whether it was benevolent and affectionate, etc." In fact, - In the first hearing of the case before the Fathers Auditors, dated July 21, 1914, the witnesses heard seemed too few to complete the process according to the sacred canons, especially since the records contained the names of people who had either attended the marriage ceremony or were intimately acquainted with the families of the contracting parties, but who had not been called to testify. They responded: "Let the records be extended, and completed according to the instruction given by the Most Reverend Prefect." However, new witnesses should be summoned, according to the instruction.

[*Latin ed. p. 47*]

As indicated by the proceedings of the Roman Rota, nearly all of those implicated have already passed away, and others could not be found, as evidenced by a letter from the official in Paris dated February 15, 1915. Regarding the principal witnesses, the parents of the actress, specifically her mother, and her three sisters, namely, Madame Mac Teigne, Madame Fahre, and Madame Beer, all of whom were examined as witnesses in the Versailles court, the investigating judge noted: "Our impression is that the witnesses were very concerned to tell the truth, and with regard to Madame Garreaud, the mother, that she is a very authoritarian woman, who would not admit any observations from her daughters, and who would certainly have carried out the threat she made to Madame Pic, née Garreaud, of sending her to a family abroad." Thus, the actress's mother recounts: "I

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married my daughters myself, and with my sole consent. I believed that a widowed mother should above all marry her daughters so that they would have support in life. The marriage was decided by me with one of my friends... No, my daughter was not free; she never ceased to protest, and I never ceased to impose my will upon her. I used every influence. I first used prayers, but I felt I must employ threats, especially the threat of sending her as a governess abroad. I knew that this would be a very great sorrow and a very great moral humiliation for her, because she considered this situation as a state of domestic service. I even, in the heat of the moment, used a certain brusqueness in taking her violently by the arms; she even bore the marks of it. She resisted through protests, prayers, and tears, and this lasted until the marriage... I had decided that I would marry my daughters in order of age; her turn had come, and for no reason would I 'yield'." The actress herself confirms this account: "After meeting him two or three times, my mother said to me: 'This is the one you must marry.' I replied that he did not please me, and that I had no intention of marrying. My mother told me from that day on, and several times afterward, that if I did not marry him, I would have to leave the house and become a governess, and that she would no longer take care of me... At the engagement, I realized that the matter was serious. I was then very sad. Madame Mariot, an old friend of the family, unaware of my feelings, told my mother that I was sad, and that my mother was wrong to arrange this marriage which was not suitable; one of my sisters repeated this conversation to me a few days later. Almost constantly, my mother insisted, and there were discussions about this."

[*Latin ed. p. 48*]

48 Acta Apostolicae Sedis - Commentarium Officiale: "Il n'y a jamais eu de nécessité dans ma famille de devenir institutrice. Ma mère avait largement de quoi nous élever... Pour nous, 'quitter la maison paternelle' était la mort. Mes sœurs et moi, nous ne nous étions jamais isolées." À la question: "Avez-vous manifesté votre 'aversion pour M. Pic avant le mariage?", elle répondit: "Jamais nous avons eu d'intimité avant le mariage." À une autre question: "M. Pic, fréquentait-il la maison?", elle répondit: "Oui, après les fiançailles, mais ma mère ne nous laissait jamais seuls, à moins qu'il n'y eût une autre personne. Je lui ai montré mon attitude de froideur, mais, n'ayant jamais été seule avec lui, je ne le lui ai pas dit... Il s'en est plaint à la dame qui avait préparé le mariage, et je l'ignore par qui je l'ai su." Les quatre sœurs, actrices, Elisabeth Mac Teigne, Amelia Fabre, Ioanna Beer et Henrica Ronveau, ont témoigné, par coaction amatre exercita, presque les mêmes choses. Ainsi, E. Mac Teigne: "Elle a été contrainte par ma mère, qui l'a 'menacée de la faire partir comme institutrice à l'étranger, si elle s'y refusait. Ma sœur m'a fait des confidences à cet égard, et m'a dit 'formellement que si elle acceptait de subir cette contrainte, c'est qu'elle ne voyait pas d'autre moyen d'échapper aux menaces et à la 'situation qui en aurait

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résulté pour elle... Ma sœur ne cessait de protester, même avec des larmes; elle avait de l'éloignement pour son fiancé et le craignait même. Sa crainte a duré jusqu'au jour du mariage; plus le terme se rapprochait, plus ses protestations devenaient vives. J'ai été témoin de toutes les scènes, et j'ai constaté la trace des violences dont ma sœur avait été l'objet... Ma mère aurait parfaitement 'exécuté les menaces'." Aux témoignages des quatre sœurs actrices, il faut ajouter celui d'une couturière, nommée Eugenia Ruelland, qui dit: "Je faisais les 'robes d'Hélène Garreaud, c'est par elle que je 'tenais au courant des fiançailles. Je me rappelle très bien avoir plusieurs fois reçu chez moi Hélène Garreaud, et étant chez elle le plus souvent, avoir été mêlée à la vie de la famille. Très souvent, Hélène est venue me trouver en larmes, se plaignant d'avoir été malmenée par sa mère, d'avoir reçu des 'giffles parce qu'elle ne voulait pas épouser M. Pic, que sa mère 'voulait lui imposer. Elle m'a dit qu'elle ne pourrait jamais épouser 'cet homme, qu'elle trouvait 'bête, ne sachant pas parler, etc. Hélène 's'est contentée d'employer les moyens qui étaient seuls à sa portée: 'larmes et supplications jusqu'au dernier jour... Je me suis hasardée un jour à dire à Mme Garreaud qu'Hélène ne semblait pas heureuse d'avoir le fiancé qu'elle lui réservait pour mari. La mère me répondit: 'Je n'ai pas son avis à prendre'."

[*Latin ed. p. 49*]

The Roman Rota, Case 49: All the aforementioned witnesses testify that the mother was imperious and obstinate, while the daughter was timid and submissive. Henrica Ronveau stated: "My mother ruled everyone with an iron fist. Her habit was to impose her will upon us, and if necessary, to use force to make us accept it... She was not afraid to make serious threats, even accompanied by physical violence, even slaps." And Eugenia Ruelland: "The mother was hideously authoritarian. I could cite a thousand facts that prove the odiousness of her authoritarianism. The daughters had to obey; and in particular, for Hélène, the obstinacy of her will to persevere until marriage." E. Mac Teigne testified: "We all feared her in every way... Very authoritarian... more authoritarian towards my sister (Hélène) because of her physical beauty." A. Fabre: "My mother is very authoritarian, she has always demanded that her daughters submit to her will." In the same sense, I. Beer, G. Garreaud, the actress's brother, and dna Arguillière, Gh. Pothier, testified, the last of whom said: "Everyone agreed that when Mrs. Garreaud wanted something, she found a way to achieve it." The sisters of the daughter testified: "My sister was very pliable and submissive, accustomed to obedience" (A. Fabre). "My sister was very gentle... the mother had trained her in obedience from a very young age" (I. Beer). "She was like wax in the hands of her mother, who could mold her" (H. Ronveau). And E. Ruelland: "Hélène was a kind, very good, very gentle, blonde girl; she was afraid of her mother." Although the mother says that she was "of an energetic character," she immediately adds, "she was so

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dominated by my will that she would never have dared to openly resist." The mother imposed marriage upon her daughter, as almost all the witnesses agree, with no one contradicting. Thus, the mother: "I married my daughters myself and with my sole consent... I had decided that I would marry my daughters at the appropriate age; Hélène's turn had come, and for no reason would I have yielded... the marriage was decided by me... my daughter never ceased to protest. There was no rupture, my will was firm... She never stopped protesting, and I never stopped imposing my will upon her." The testimonies of the actress's sisters, Mac Teigne, and Ronveau, as well as Eugenia Ruelland, corroborate this. Furthermore, the mother used means to overcome the daughter's opposition, including the threat of expulsion from the paternal home so that she could exercise the profession of governess abroad; the mother said: "I believed it necessary to use threats, especially the threat of sending her as a governess abroad." This is confirmed by the ACTA themselves, Volume VIII, No. 2.

[*Latin ed. p. 50*]

50 Acta Apostolicae Sedis - Commentarium Officiale. Helena, by A. Fabre, T. Beer, H. Ronveau, E. Ruelland. The girl bore the exile from her paternal home with extreme distress, and she seemed to foresee a grave misfortune looming over her, as she herself and other witnesses declare. Helena said: "For us to leave the paternal home was death. My sisters and I had never been isolated; in the convent, we were two or three together, and the convent was very close to the country house, where our parents came to live from Easter to All Saints' Day. At the age of 16, I was sent to the convent of Poichemone... After three months, I had violent nervous crises... I certainly attribute these crises to the boredom caused by being separated from home." H. Ronveau testified: "I understand my sister's fear of such a threat; she was only 19 years old, had always lived with us, and saw this life outside the family, in a foreign country, deprived of the affection of us all whom she loved, as the greatest punishment." Another sister, I. Beer, said: "This threat was terrible for my sister." Helena also saw this as an inevitable evil, since she knew that her mother would not hesitate to carry out the threats, as the same witnesses again declare. "Yes, my mother," said E. Mac Teigne, "would have perfectly executed these threats. My mother was convinced that it was her duty to ensure the prompt establishment of her daughters, as her commercial activities prevented her from supervising them. Therefore, she did not hesitate to impose her will, even through threats." Similarly, A. Fabre, I. Beer, and E. Ruelland testified, and the mother herself confirmed this, saying: "For no reason would I have yielded." The girl resisted with prayers and tears until the very day of the marriage, as the same witnesses affirm; her mother herself said: "She resisted with protests, prayers, and tears, and this continued until the marriage... She had no means of avoiding the consequences of

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my threats, since she was a minor." The same is testified by the actress and her sisters. Although her married life lasted almost thirteen years, from the very beginning of the marriage, she was never peaceful, which is an indication of the woman's aversion to her husband, and from which a certain presumption arises of a forced marriage. The sister of the actress, E. Mac Teigne, said: "From the very first days that followed the departure for the wedding trip, my sister wrote to me, urging me to come and join her, and that in the most urgent manner. I myself was then a witness to the violent scenes that terrified my sister and me. The common life continued just as painfully, and things went from bad to worse for about ten years..."

[*Latin ed. p. 51*]

The Roman Rota, number 51, concerning "the day of the definitive separation." Other actresses testify to continuous disagreements between the spouses; and the witness, Cn. Pothier, confirms this, saying: "It was observed that the young spouses seemed to be very 'unhappy.'" It is, therefore, in vain to argue that the marriage was validated by the long cohabitation of the spouses, for a marriage contracted under metus [fear] cannot be validated except by consent expressed in the proper manner, when a public impediment is involved, which, indeed, can be proven in the external forum, as confirmed by the jurisprudence of the Sacred Congregation, which declares: "If metus is proven, no marriage is declared valid, even after a long cohabitation and the birth of several children, without any concern for whether 'expressed or tacit consent' was given" (Gasparri, vol. % n. 1418, ed. 1905). Having considered all of this, both in law and in fact, and invoking the name of Christ, We, the Auditors of Tournon, sitting for the Tribunal and having only God before our eyes, declare and definitively pronounce our judgment, answering the proposed question: Affirmative, that is to say, that the marriage is null in this case; and the actress, Helena Garreaud, shall be responsible for all the judicial expenses. Thus we declare, ordering the Ordinaries of the places and the officials of the tribunals to whom it pertains, to enforce this our definitive judgment, and against those who resist, to proceed according to the sacred canons, especially chapter 3, session XXV, concerning the reform of the Council of Trent, using the executive and coercive means that are more suitable and effective for the circumstances. Rome, in the seat of the Tribunal of the Sacred Roman Rota, on the 21st of May, 1915. Ioannes Prior, President. Aloisius Sincero. Iosephus Mori. L. © From the Chancery, August 3rd, 1915. Sac. T. Tani, Notary.

[*Latin ed. p. 52*]

Acts of the Apostolic See - 52 Official Commentary II. CASES CLOSED IN CAMERA. In the Holy Roman Rota, the following cases were heard in camera in the year 1915, of which the definitive judgment is published only

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in part, in the dispositive section.

I. INJURIES. Incidental. The doubtful question proposed: Whether the words, concerning which mention is made in the memorial of July 7, 1913, are irrelevant or injurious, and therefore whether they ought to be deleted, or not? The Most Reverend Fathers, Doctors F. Cattani Amadori, Presiding, I. Alberti, and P. Rossetti of Tournon, on July 2, 1915, judged that: Affirmative.

II. OBLIGATIONS OF BENEFICE. The doubtful question proposed: Whether it is incumbent upon the Priest N. N. to assist, and in what manner, the parish priest of the place, in this case; The Most Reverend Fathers, Doctors F. Cattani Amadori, Presiding, I. Mori, and P. Rossetti of Tournon, on August 14, 1915, judged that: Negative, or it does not consist of an obligation to assist the parish priest.

[*Latin ed. p. 53*]

From the Roman Curia Diary, 53.

ROMAN CURIA SECRETARY OF STATE.

By means of letters from the Secretary of State, the Holy Father has deigned to appoint:

January 26, 1916. — His Eminence, Cardinal Filippo Giustini, Protector of the Institute of the Little Brothers of Mary.

January 27. — His Eminence, Cardinal Domenico Serafini, Prefect of the Sacred Congregation of Religious.

February 1. — The Reverend Monsignor Gaetano Cicognani, Secretary of the Apostolic Nunciature, assigning him to serve at the Apostolic Nunciature in Spain.

February 8. — The Reverend Father Eugenio Couet, Superior General of the Priests of the Most Holy Sacrament, Consultant for the Causes of Beatification and Canonization of the Sacred Congregation of Rites.

By Apostolic Briefs, the Holy Father has deigned to appoint:

Assistants to the Papal Throne:

January 10, 1916. — Monsignor Eduardo Duarte Silva, Bishop of Liberaba.

January 17. — Monsignor Antonio Raimondo Silva, Bishop of Merida.

January 28. — Monsignor Giovanni G. Shaw, Bishop of Saint Anthony.

February 3. — Monsignor Francesco Saverio Cloutier, Bishop of Trois-Rivières.

Apostolic Protonotary, as if among those participating:

January 31, 1916. — Monsignor Giuseppe De Hecher, Preposit of the Royal Collegiate Church of the Court in Munich of Bavaria.

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Domestic Prelates of His Holiness:

January 20, 1916. — Monsignor Gaetano Lioy-Lupis, of Molfetta.

January 21. — Monsignor Rodolfo Maiocchi, Rector of the Borromeo College in Pavia.

[*Latin ed. p. 54*]

54 Acta Apostolicae Sedis - Official Commentary

HONORS

By Apostolic Brief, the Holy Father deigned to bestow the following honors:

The Grand Cross of the Order of Pius: January 8, 1916. — To His Excellency, Mr. Don Cipriano Muñoz y Manzano, Count of De la Vinaza, Extraordinary and Plenipotentiary Ambassador of Spain to the Holy See.

January 21. — To His Excellency, Mr. General Giovanni Vincenzo Gomez, Constitutional President of the United States of Venezuela.

The Grand Cross of the Order of Saint Gregory the Great, civil class: January 15, 1916. — To Mr. Fernando de Soto y de Aguilar, Count of Puerto Hermoso.

January 27. — To Mr. Knight, Doctor Eugenio De Knilling, Minister of Cults and Schools in Bavaria.

The Grand Cross of the Order of Saint Gregory the Great, military class: January 27, 1916. — To Mr. Baron Colonel Guglielmo De Leonrod, Grand Master of the Court and Great Equerry of the King of Bavaria. — To Mr. Count Colonel Massimiliano De Möy, Grand Master of Ceremonies in the court of Bavaria.

The Commander of the Order of Saint Gregory the Great, civil class: January 11, 1916. — To Mr. Giorgio Elia Amyot, member of the Legislative Council of the province of Québec. — To Mr. Némèze Garneau, member of the same Council.

January 22. — To Mr. Senator Carlo Riou, of the diocese of Vannes.

January 27. — To Mr. Baron Paolo De Stengel, head of the cabinet of the Minister of Foreign Affairs of Bavaria.

The Commander of the Order of Saint Gregory the Great, military class: January 11, 1916. — To Mr. Nicola Giosuè Pinault, of the archdiocese of Québec.

The Knighthood of the Order of Saint Gregory the Great, civil class: January 4, 1916. — To Mr. Lawyer Biagio Natoli, of Mazzarino in the diocese of Piazza Armerina.

[*Latin ed. p. 55*]

From the Roman Curial Diary, 55, January 7, 1916. – To Mr. Guglielmo Giovanni Maria Westerwoudt, of Amsterdam. January 14. – To Mr.

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Giuseppe Pouzet, of Lyons. The Commandery of the Order of St. Sylvester: January 22, 1916. – To Mr. Cavaliere Marco Cecchini, of Rome. February 1. – To Mr. Doctor Fritz Holm, of the Archdiocese of New-York.

THE PAPAL HOUSEHOLD, BY APPOINTMENT: With letters from His Eminence, the Reverend Monsignor, the Holy Father has deigned to appoint:

Extraordinary Secret Chamberlains to His Holiness:

October 31, 1914. – Monsignor Enrico Koch, of the Archdiocese of Colonia.

April 7, 1915. – Monsignor Giacomo Bushati, of the Diocese of Sappa.

November 9. – Monsignor Giuseppe Piagge, of the Diocese of Osnabrück.

November 29. – Monsignor Bernardo Dinkgrefe, of the same Diocese.

November 29. – Monsignor Luigi, Doctor Sacchi, of the Diocese of Pavia.

December 13. – Monsignor Dionigi Casaroli, of the Archdiocese of Bologna.

December 18. – Monsignor Candido De Angelis, of the Diocese of Albano Laziale.

December 21. – Monsignor Salvatore De Angelis, pastor of St. Peter in the Vatican.

December 23. – Monsignor Gerardo van der Boer, of the Diocese of Bois-lè-Duc.

December 23. – Monsignor Luigi Gaillard, of the Diocese of Beauvais.

January 11, 1916. – Monsignor, Professor, Lawyer Giacomo Sole.

January 17. – Monsignor Venturino Bracci, of the Diocese of Orte.

January 19. – Monsignor Pietro Forzoni, of the Diocese of Arezzo.

January 19. – Monsignor Giorgio Everard, of the Diocese of Namur.

January 31. – Monsignor Pietro Koeveler, of the Archdiocese of Colonia.

February 3. – Monsignor Luigi Fanti, vicar of the Basilica of St. Luke, of the Diocese of Bologna.

February 3. – Monsignor Filelfo Bezzi, of Rome.

Extraordinary Secret Chamberlains with Sword and Cape to His Holiness:

January 30, 1915. – Mr. Commendatore Giacomo Schreiner, of the Archdiocese of Vienna.

October 15. – Mr. Francesco de Stieglitz, of the Diocese of Fulda.

[*Latin ed. p. 56*]

56 Acta Apostolicae Sedis - Official Commentary, December 15, 1915. — The Most Reverend Marquess Thomas Balbi, of the archdiocese of Genoa. December 30. — The Reverend Mr. Edoardo Villeré Papin, of the arch-

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diocese of St. Louis (United States of America). January 19, 1916. — The Most Reverend Baron Alfonso Leone Maria Giuseppe Ghislain of Montpellier de Vedrin, of the diocese of Namur. January 24. — The Most Reverend Count Paul Manassei of Gollestatte, of Rome. Honorary Chamberlains, wearing the peacock blue cassock of His Holiness: October 6, 1915. — The Reverend Monsignor Moyses Gonçalves de Conto, of the diocese of IHieos. November 6. — The Reverend Monsignor Lorenzo Pavanelli, of the diocese of Brzesc. — The Reverend Monsignor Luigi Vigna, of the same diocese. December 29. — The Reverend Monsignor Luigi Fanfani, of the archdiocese of Florence. Honorary Secret Chamberlain of His Holiness: January 19, 1915. — The Reverend Monsignor Stefano Schulz, of the diocese of Warmia. NECROLOGY, January 17, 1916. — The Most Reverend Monsignor Domenico Maria Valensise, titular Archbishop of Ossirinco, assistant to the Holy See. — The Most Reverend Monsignor Vito Antonio Fioni, titular Bishop of Sidon. January 18. — The Most Reverend Monsignor Giuseppe Camassa, titular Archbishop of Trebisonda. January 25. — The Most Reverend Monsignor Dionisio Nicolosi, Bishop of Scio. — The Most Reverend Monsignor Raniero Sarnari, Bishop of Macerata and Tolentino. February 6. — The Most Reverend Monsignor Michele Cardella, Bishop of Sovana and Pitigliano. February 8. — The Most Reverend Monsignor Giuseppe Torras y Bages, Bishop of Vieh. February 12. — The Most Reverend Monsignor Giovanni Battista De Santi, Bishop of Aiaccio.

[*Latin ed. p. 57*]

March 4, 1916. Year VIII. Vol. VIII. No. 3. ACTA APOSOLICAE SEDIS. OFFICIAL COMMENTARY. ACTS OF POPE BENEDICT XV. LETTER I TO PAULINUS PETER, S.R.E. CARDINAL ANDRIEÜ, ARCHBISHOP OF BURDIGALA, CONCERNING THE MEANS TO ALLEVIATE THE SUFFERING OF THE NEGROES ON THE FEAST OF THE EPIPHANY OF THE LORD.

Beloved Son, health and the apostolic blessing. – Since this flourishing city, which is the seat of your honor, is held in the highest esteem and is renowned as a great trading center within the possessions of Africa in Galliae, and since the miserable and wretched condition of the Negroes is a great concern to Us in the exercise of Our apostolic office, We send these letters to you, beloved Son, so that We may, as far as We can, contribute to their relief.

It is scarcely necessary to write at length about the removal of this shameful traffic in slaves. For it is well known how much the Church of God has done in this matter from the very beginning, affirming that the same dignity belongs to all men, and that they are all equal in rights; and how it has encouraged the manumission of slaves in the hope of heavenly goods; and how it has even established religious orders to free slaves. Nevertheless, it is to be lamented that this foul stain and blemish, although largely removed,

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still remains in the body of human society; therefore, it is entirely fitting that this most illustrious Apostolic See diligently pursue its merits in favor of men in this very matter as well. Therefore, following the example of Pius X, may it be known that We, confirming the decree of Leo XIII, decree that, annually, on the Feast of the Epiphany of the Lord, in...

[*Latin ed. p. 58*]

Acts of the Apostolic See - 58. Official Commentary on matters which are publicly celebrated, concerning the correction of those who redeem slaves, we desire to be amended. And we consider this matter to be all the more urgent, because sufficient fruits have already been perceived, offering good hope that, at length, that which is of such great importance to the cause of humanity will be achieved. May the hoped-for day hasten, we pray. Jesus Christ, the Redeemer of the human race, and all those who have contributed counsel, effort, and resources to this cause, may they be rewarded with their due recompense. As a witness to our hope and benevolence, we impart to all of you, individually and collectively, and especially to you, our beloved son, our apostolic blessing with all our heart. Given in Rome, at St. Peter's, on the second day of February, in the year 1916, of our Pontificate. BENEDICT XV.

TO HIS EMINENCE BASIL, CARDINAL OF THE HOLY ROMAN CHURCH, POMPILJ, VICAR OF THE CITY.

TO CATHOLIC WOMEN AND FAMILIES, BOTH INDIVIDUALS AND ESPECIALLY ASSOCIATIONS, WE URGE THEM, ESPECIALLY DURING THE APPROPRIATE AND ACCEPTABLE TIME OF LENT, TO OFFER PRAYERS FOR THE END OF THIS IMMENSE WAR.

Signor Cardinale,

The terrible conflict that tears at Europe, We, as the universal shepherd of souls, could not, without failing in the sacred duties imposed upon us by the sublime mission of peace and love entrusted to us by God, remain indifferent or silently witness. And therefore, from the very beginning of Our Pontificate, with the anguish that this terrible spectacle aroused in Our heart, We repeatedly endeavored, through Our exhortations and Our counsel, to induce the contending nations to lay down their arms, resolving their disputes in the manner required by human dignity, through a friendly agreement. Casting ourselves, as it were, among the warring peoples, like a father among his own children in conflict, We implored them in the name of that God, who is infinite justice and charity, to renounce the purpose of mutual destruction, and to clearly and directly or indirectly, expose the desires of each party, and to take into account, to the extent...

[*Latin ed. p. 59*]

The acts of Pope Benedict XV, page 59, speak of justice and what is possible, of the aspirations of the peoples, accepting, where necessary, in

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favor of equity and the common good of the great consortium of Nations, the due and necessary sacrifices of self-interest and particular interests. This was and is the only way to resolve the monstrous conflict according to the norms of justice, and to arrive at a peace that is not beneficial to only one of the parties, but to all, and therefore just and lasting. Unfortunately, Our paternal voice has not yet been heard, and the war, with all its horrors, continues fiercely. Nevertheless, We, My Lord Cardinal, cannot, must not remain silent. It is not permissible for a father, whose children are in fierce contention, to cease from admonishing them, simply because they resist his prayers and his tears. And You know, on the other hand, that, although Our repeated cry for peace has not achieved the desired effect, it has nevertheless had a profound echo, and has descended like a balm into the hearts of the warring peoples, indeed of the peoples of the entire world, and has aroused in them a lively, acute desire to see the bloody conflict resolved as soon as possible. Therefore, it is not possible for Us to refrain from raising Our voice once again against this war, which appears to Us as the suicide of civilized Europe. We must not neglect to suggest or to point out, when circumstances allow, any means that may be beneficial in achieving the desired goal. A propitious opportunity is now offered to Us, My Lord Cardinal, by some pious ladies, who have expressed their intention to unite in spiritual communion of prayer and penance, during the imminent Sacred Lent, in order to more easily obtain from the infinite mercy of God the cessation of this immense scourge. To Us, who have often instilled the importance of constant prayer and Christian penance, as the only comfort to the anguish of Our heart and of every human heart for this horrible fratricidal struggle, and as the most effective means of obtaining from the Lord the longed-for peace, such a purpose could not but be most welcome. We have therefore blessed it with all the effusion of Our paternal heart, and We now wish to publicly commend it, desiring that all the faithful make it their own. We trust, therefore, that not only in Rome, but throughout Italy and in other belligerent countries, Catholic families will gather together, especially in the coming days dedicated to penance, far from worldly spectacles and amusements, in more fervent and constant prayer, and in the practice of Christian mortification, which makes the supplications of His children more acceptable to the Lord, and which, in the present circumstances, appears to be exceedingly opportune and responsive to the sorrow of every well-intentioned soul. Special exhortation

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[*Latin ed. p. 60*]

60 From the Apostolic See – Official Communication: We know that there are many mothers, wives, daughters, and sisters of the combatants, whose tender and gentle hearts, more keenly than any others, feel the immense tragedy of the present, terrifying war; therefore, that they, through their

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example and the gentle influence they exert in the domestic sphere, may encourage all members of their families to raise to God, in this acceptable time, in these days of grace, a continuous and more fervent prayer, and to present to His Divine Throne an offering of willing sacrifices, which may appease His most just wrath. Indeed, it would be most pleasing to Us that the same Catholic families of all the warring nations should dedicate themselves to such works of piety, especially on the sacred day commemorating the sublime sacrifice of the God-Man, Who, with sorrow, willed to redeem and unite all the sons of Adam, and that they should ask Him, in those hours made eternally memorable by His infinite charity, – through the intercession of the sorrowful, yet unconquered, Mother His, Queen of Martyrs, – for the grace to endure with fortitude and Christian resignation the anguish and the most grievous losses caused by the war, and to implore Him to put an end to such a long and terrible trial. And since also through alms sins are expiated and the justice of God is appeased, We desire that each family should offer, in proportion to their possessions, the offering of charity, to be given in favor of the poor and the afflicted, so dear to Jesus the Redeemer, and especially for the relief of the wretched children of those who have died in this horrible war. Finally, hoping that the families of the neutral countries will also wish to join in these works of Christian piety, – moved by a tender sentiment of human compassion and, even more strongly, by the supernatural charity which must unite the children of the same heavenly Father, – We impart from the heart to you, Most Reverend Cardinal, and to the aforementioned women and Catholic families, the Apostolic Blessing. From the Vatican, March 4, 1916. BENEDICT XV.

[*Latin ed. p. 61*]

The Most Holy Congregation of the Holy Office, 61. ACTA of the MOST HOLY CONGREGATIONS. SUPREME HOLY OFFICE. DECLARATION concerning the faculty of Bishops in reconciling heretics or apostates. Since certain Bishops have presented humble petitions to the Most Holy Congregation of the Holy Office, requesting faculties for the reconciliation of heretics or apostates, the Most Eminent and Reverend Lords Cardinals, Inquisitors General, in a session held on Thursday, the 16th of February, 1916, in order to remove all doubt on this matter, have decreed the following:

1. The absolution from excommunication, by which someone is ensnared because of heresy or apostasy, to be administered in the forum of conscience, is, according to the prescriptions in the Apostolic Constitution, especially reserved to the Supreme Pontiff.

2. However, if the crime of heresy or apostasy has been brought to the external forum, before a Bishop or a prelate possessing episcopal or quasi-episcopal authority, either through spontaneous confession or in any other way, the Bishop or prelate, with his own ordinary authority, may absolve the heretic or apostate, having previously obtained a legally completed

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abjuration, and with all other things to be observed according to law, in the external forum. But the one absolved in the external forum may then be absolved by any confessor in the forum of conscience, with sacramental absolution.

The abjuration is considered legally completed when it is made before the Bishop or prelate, or their delegate, and in the presence of at least two witnesses.

Given at Rome, from the offices of the Holy Office, 19th of February, 1916.

Aloysius Castellano, Secretary of State and of the Holy Office.

[*Latin ed. p. 62*]

Acta Apostolicae Sedis - Official Commentary

SACRED CONGREGATION CONSISTORIAL

I. ERECTION OF NEW DIOCESES AND A CHURCH PROVINCE IN HONDURAS AND THEIR PROVISION.

By a Consistorial decree of February 2, 1916, the Most Holy Father, Pope Benedict XV, divided the diocese of Comayagua, which encompasses the entire Republic of Honduras, into three parts, and assigned the eastern part, which consists of eight civil provinces, namely: Yoro, Comayagua, La Paz, Valle, Tegucigalpa, Choluteca, El Paraíso, and Olancho, to a new diocese, to which, from the capital city of the republic, Tegucigalpa, the name Tegucigalpa was given; and he exempted it from the metropolitan jurisdiction of the Church of Guatemala and elevated it to the rank of a metropolitanate. Furthermore, he promoted the Reverend Father Joseph Mary Martínez Cabanas, hitherto Bishop of Comayagua, to the position of Archbishop to govern it. In the western part, he established a new diocese of San Rosa de Copán, within whose territory are included the five civil provinces of: Santa Barbara, Copán, Gracias, Ocotepeque, and Intibucá, and he appointed the Reverend Claudius Volio, parish priest and Forane Vicar of the place commonly called Alajuela in the diocese of San José de Costa Rica, as its Bishop. Finally, in the northern part, he erected the Apostolic Vicariate of San Pedro Sula, which includes the civil provinces of: Cortés, Islas de la Bahía, Atlántida, and Colón. This new diocese and Apostolic Vicariate were placed as suffragan dioceses under the metropolitan Church of Tegucigalpa.

II. ERECTION OF A NEW DIOCESE IN BRAZIL.

By a Consistorial decree of February 3, 1916, the Most Holy Father, Pope Benedict XV, at the request of the Bishop himself, divided the territory of the diocese of Pouso Alegre in Brazil into two parts, and, while the southern part remained within the diocese of Pouso Alegre, he erected a new diocese

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of Guaxupé in the northern part, so named from the city of Guaxupé. This diocese...

[*Latin ed. p. 63*]

The Sacred Congregation of Councils will observe the same boundaries with respect to these matters, as those by which the northern part of the diocese of Pouso Alegre was previously defined; except on the southern side, where it is separated from the aforementioned diocese of Pouso Alegre by the southern limits of the parishes commonly known as Poços de Caldas, Campestre, and Machado, which belong to the new diocese. The Sacred Congregation has established a suffragan diocese, until otherwise determined, under the archdiocese of Mariana.

III. ADDITION OF EPISCOPAL TITLES. His Holiness Pope Benedict XV, by decree of the Sacred Congregation of Councils dated February 15, 1916, added the ancient titles of the dioceses of Reichen and Susa to the church of Digne, so that henceforth the church of Digne shall also be designated by the titles of Reichen and Susa, and the Bishop of Digne shall be called the Bishop of Digne, Reichen, and Susa.

IV. PROVISIONS FOR CHURCHES. By subsequent decrees of the Sacred Congregation of Councils, His Holiness Pope Benedict XV, has provided for the following churches, as follows:

January 12, 1916. — The Reverend Ignatius Le Ruzic was appointed administrator apostolic of the cathedral church of Les Cayes.

January 19. — The Reverend Father Anthony Aurelius Torres and Sanz, formerly Bishop of Centumfocenses, was appointed titular bishop of the church of Augile.

January 20. — The Reverend Joseph Tupinambá da Frota, parish priest of the city of Sobral, was appointed administrator apostolic of the cathedral church of Sobral.

January 27. — The Reverend Dionysius Avila, canon and dean of the metropolitan church of La Plata, and a doctor of civil law, was appointed administrator apostolic of the cathedral church of De Pace.

February 7. — The Reverend Father Anthony Augustus de Assis, formerly Bishop of Pouso Alegre, was appointed administrator apostolic of the cathedral church of Guaxupé.

February 14. — The Reverend Octavius Chagas de Miranda, parish priest of the cathedral church of Campinas, was appointed administrator apostolic of the cathedral church of Pouso Alegre in Brazil.

[*Latin ed. p. 64*]

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SACRA CONGREGATIO DE DISCIPLINA SACRAMENTORUM

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LICEITATIS MATRIMONII

Species facti. - Una puella, non catholica, habitans in paroecia B, desiderabat nubere ad unum virum catholicum, habitantem in paroecia L, eodem archidioecesi. Sed, ante nuptias, praefata puella, propter otium, se contulit in aliam paroeciam praefatae archidioeceseos, nomine S, ubi commorata est unum mensem, et ubi interim a respectivo parocho baptizata ac in sinum Ecclesiae catholicae recepta est. Iamvero, post hunc ingressum in Ecclesiam catholicam, ibidem non plus quam partem mensis remansit: deinde domum rediit, ubi morata est tres hebdomadas; quibus elapsis, iterum in eundem locum S migravit, ubi statim die 28 aprilis 1915 matrimonium contraxit coram praedicto eiusdem loci parocho, idque sine consensu, seu licentia rectoris paroeciae B. Quare, hic "putans se esse proprium puellae parochum," casum submisit iudicio Tribunalis matrimonialis ab Ordinario permanenter instituti. Quod Tribunal, tribus iudicibus constans, in scripta sua ad Ordinarium relatione, litem ita dirimendam existimavit: "Censemus eiusmodi casum solutionem ex responsionibus oriri tribus sequentibus quaestionibus: 1. Utrum Ordinarius rectori paroeciae S facultatem fecerit rite matrimonio adstandi. 2. Utrum menstrua commoratio sponsae, quatenus ad religionem catholicam conversae, in paroecia S necessaria habita fuerit, ut enunciatus parochus licite matrimonio adstaret. 3. Utrum ipse iusta ex causa eidem matrimonio adstiterit. Iamvero, ad primam quaestionem quod attinet, si Ordinarius, ius suum legitime exercens, rectori paroeciae S permisit ut enunciato matrimonio rite adesset, causa finita est. At ex sponsi litteris contrarium arguitur. Secundam quod spectat quaestionem, opinamur, iuxta Decretum Ne temere respiciens, ut videtur, solummodo eos qui more catholicorum baptismum receperunt, menstruam commorationem ex parte sponsae, uti catholicae, necessariam fuisse in casu.

[*Latin ed. p. 65*]

The Holy Congregation for the Discipline of the Sacraments, 65: "The pastor of the parish of Cattolica states that the bride had not resided there for the entire month of [the month preceding the marriage], but rather in the parish of S. Regarding the third question, concerning the letters presented by the bridegroom, we believe that a just cause was lacking; for the reason adduced, namely, personal friendship and political considerations, would not be sufficient, according to the new law on marriage, if the bride had not completed her month of residence as a Catholic. For the reasons stated, we believe that the pastor of the parish of Cattolica acted improperly, and we admonish him to adhere to the maternal correction."

Thus far. The Tribunal: to which the Ordinary, on July 26, 1915, responded in this manner: "I have granted no permission to the pastor of the parish of Cattolica. However, I am compelled to disagree with the

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opinion of the Tribunal regarding the month of residence of the bride as a Catholic. Indeed, the words 'as a Catholic' indicate a condition which is not included in the text of the law, nor do we know that it was added by the legislator as an authentic interpretation."

However, the pastor of the parish of Kosso, believing, as he himself states, that this decision of the Ordinary was not in accordance with the Decree *Ne temere*, presented the case, on September 30, 1915, through a supplication, with the consent of the Archbishop, to the Holy Congregation.

Observations:

1. The case presented does not concern the validity of the marriage; since it was celebrated by the pastor of the parish of Cattolica in his own territory, and before the pastor of the parish of Kosso (Decree *Ne temere*, article III), it concerns only the licitness of that marriage.

2. From what has been presented in the case, there was a lack of permission from the Ordinary, or from the pastor of either parish, nor was there a grave necessity that would excuse it (Decree *Ne temere*, article V, § 3), since such a necessity cannot be considered to be the personal friendship and political considerations mentioned in the case. Therefore, the entire reason for the licitness in the present case must be derived from the month of residence of the bride in the parish of Cattolica.

3. Is the month of residence of the bride in the parish of Cattolica to be counted from the day of her conversion to the Catholic faith, or from the day she entered the parish? It is clear that, for the purpose of licitness, the mere external fact of residence is sufficient, setting aside the fact of the bride's conversion to the Catholic faith. Furthermore, the will of the legislator must be sought from the words of the law, according to the saying: "The legislator has expressed what he wanted." But in the Decree *Ne temere*, only the month of residence of either of the contracting parties is required, and no mention is made of their religion. Therefore, only the material fact of residence is required for licitness (with all other legal requirements observed). And this fully corresponds to the purpose of the law, which was to propose...

[*Latin ed. p. 66*]

66 Acta Apostolicae Sedis - An official commentary, a purely external and universally accessible document, intended to prevent uncertainties and dangers of illicit acts.

4P. In the actual celebration of the marriage, the required monthly residence of the bride was lacking, which renders the celebration of the marriage in the parish of S. illicit. For those words of the Decree: "I decree... concerning the monthly residence," are not to be understood in such a way that any monthly residence, once had, is sufficient. For then the betrothed would have had their own parish priest for the licit celebration of marriage,

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wherever they had resided for a month, at any time, which is most contrary to the intention of the legislator and to the spirit of the Decree "Lest rashly," in which the monthly residence was substituted by quasi-domicile, so that the difficulties that would arise from quasi-domicile, due to the necessity of investigating the intention of permanent residence in a place for the greater part of the year, would be avoided. But the aforementioned words: "I decree... concerning the monthly residence of either of the contracting parties," must be understood, from the context of the discourse and the intention of the legislator, in the sense that the monthly residence, morally continuous, is the minimum sufficient for the licit assistance of the parish priest of the place. But it is clear to everyone that an interruption of three weeks is a notable interruption, which destroys the moral continuity of the bride's previous monthly residence in the parish of S. Therefore, the bride, although she had resided in the aforementioned parish for a month, could not licitly celebrate the marriage immediately in the parish of S., because of the fact of her return to her own domicile, and her residence there for a period of three weeks, but she must either complete a new monthly residence, or seek permission from her own parish priest or the Ordinary of the place.

The Most Reverend Fathers of this Congregation, after mature deliberation, in a plenary meeting held on January 28th of the past year, regarding the proposed question: "Did the pastor of the parish of S. illicitly assist at the marriage in this case?" decided to respond: "The pastor of the parish of S. illicitly assisted at the marriage in this case, because the bride, through her departure of three weeks, lost the monthly residence."

Aloysius Capotesti, Bishop of Thermen, Secretary.

[*Latin ed. p. 67*]

The Holy Congregation of the Propagation of the Faith, 67. The Holy Congregation of the Propagation of the Faith, concerning the nominations of Bishops. By brief apostolic letters, the following were nominated: January 27, 1916. – Reverend Father Emmanuel Prat, of the Order of Preachers, titular Bishop of Mactaris, and Apostolic Vicar of Amoenus. January 28. – Reverend Father James Victor Mary Rouchouse, a member of the Parisian Society for Missions to Foreign Lands, titular Bishop of Aegearuwi, and Apostolic Vicar of Se-Ciuen, in the northwest.

The Sacred Congregation for the Rites, in Paris. Decree concerning the beatification or declaration of martyrdom of the Servants of God, John Mary du Lau, Archbishop of Arles; Francis Joseph de La Rochefoucauld, Bishop of Bellovacensis; Peter Ludovic de La Rochefoucauld, Bishop of Santonensis; and of those associated with them, who were murdered in Paris in the month of September, 1792. The seditious disturbances which, at the close of the eighteenth century, cruelly ravaged France under the guise of philosophy and social reform, especially demonstrated a vehement

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hatred for the true Church of Christ and its ministers. This is clearly evident from the words and actions of those who directed those disturbances, and who attempted to deprive the Catholic Faith of the power conferred upon that most noble nation by laws and decrees. It is sufficient to recall the civil constitution of the clergy, which attempted to utterly overturn the very constitution of the Church, firmly and unshakeably established by its divine Founder. Therefore, not only did all the Bishops condemn that nefarious innovation,

[*Latin ed. p. 68*]

68 Acta Apostolicae Sedis - Official Commentary, but the Holy Apostolic See, on April 13, 1791, declared and condemned it as heretical, sacrilegious, and schismatic, overturning the rights of Primacy and the Church, contrary to both ancient and new discipline, and conceived with no other purpose than to utterly abolish the Catholic religion. Furthermore, that wicked sedition raged against Church officials and other ministers who steadfastly professed the Catholic Faith, rivaling the ancient savagery and cruelty of the pagans. The crimes of the persecutors, and the names of those who committed them, are forever detested and abhorred by the common people. Those who suffered in that calamitous month of September 1792 in Paris, in the Carmelite monastery, in the seminary of Saint Firmin, in the Abbey of Saint Germain, and in the prison commonly called La Force, still live in the memory and blessing of men, and since it is impossible to describe and commemorate each one individually, let us speak of three prelates. — John Mary du Lau, born in the diocese of Petrocoricensis in 1738, from his early years inclined to piety and studies, easily surpassed his classmates in letters and sciences as a young man. Entering the seminary of Saint Sulpice, he diligently pursued studies in philosophy and theology. Due to his outstanding merits, he was elevated to the archiepiscopal See of Arelatensis, following in the footsteps of the holy prelates who preceded him, and of Saint Charles Borromeo, Archbishop of Mediolanensis, and he governed the Church entrusted to him with order and prudence. He especially promoted the studies, discipline, and spirit of the clergy according to the sacred canons, greatly enhancing the splendor of the divine worship, and constantly provided salutary nourishment to his flock. Having gone to Paris, when he refused to take the oath of the civil constitution, he was thrown into the Carmelite monastery, which had been transformed into a prison, along with other captives, and was killed by violent blows of the sword by impious assassins. — Francis Joseph de la Rochefoucauld, born in 1736 in the diocese of Engolismensis, who, after being educated in theological disciplines at the seminary of Saint Sulpice and at the College of Navarre, in 1772 renounced the episcopate of Bellovacensis. He expressly declared the firmness of his faith in his works and writings, professing that he was a Catholic, apostolic, and Roman Bishop. He shone with charity in

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the episcopal See, especially towards the poor, to whom he also bequeathed all his possessions in his will. Called from the Carmelite monastery to the scaffold and brought to the place where the lifeless body of his younger brother lay, he was killed lying upon the corpse of that brother. — Peter Louis de la Rochefoucauld, also born in 1744 in the diocese of Engolismensis, who happily completed his theological studies, which he had begun at the seminary of Saint Sulpice, at the College of Navarre. Having been chosen for various offices and ecclesiastical dignities, he was finally promoted to the episcopal See of Santonensis. With pastoral virtues...

[*Latin ed. p. 69*]

The Most Holy Congregation of Rites, numbering sixty-nine, greatly benefited the clergy and the people entrusted to its care. It devoted all its efforts to the education of youth, both in schools and in seminaries. A defender and avenger of religion and truth, it condemned the errors of the Jansenists. As President of the States of the province of Saintonge and as a deputy to the General Estates, without hesitation, it signed the principles set forth against the Civil Constitution of the Clergy, which it itself refused to approve or swear to. Because of such constancy, it was understood, and its brother Bishop of Beauvais, following and embracing it, while praying to God to be merciful to them and to their enemies, was again murdered, having once more denied the oath. — Concerning these prelates and their companions, who, as is said, were equally outstanding in faith, zeal, and dedication to the cause, it is permissible to exclaim: "This is true brotherhood, which has happily united such heroes to Christ, the firstborn of the dead, and who reigns in glory with many brothers in heaven. Behold, how good and how pleasant it is for brethren to dwell together!" Therefore, as the fame of the sanctity and martyrdom of these Servants of God has grown more and more in recent times, an informative process concerning them was prepared in the ecclesiastical court of Paris, and subsequently sent to Rome to the Sacred Congregation of Rites. Now, at the urgent request of the Most Reverend Father Francis Xavier Hertzog, the general procurator of the Society of Saint Sulpice and legitimately appointed promoter of this cause, and after careful consideration of the letters of request from all the Archbishops and Bishops of France, and from all the prelates of Canada and the Province of Westminster, as well as from several chapters of cathedral churches, superiors general of orders or congregations, and from the community of Carmelites of the Parisian monastery, the Most Eminent and Reverend Cardinal Vincent Vannutelli, Bishop of Ostia and Palestrina, Dean of the Sacred College, and Promoter or Relator of this cause, at a meeting of the Sacred Congregation of Rites, held on the designated day at the Vatican, proposed the following question for discussion: Should a Commission be appointed for the introduction of the cause in the case and for the purpose in question? And the Most Eminent and Reverend Fathers

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entrusted with the safeguarding of the sacred rites, after hearing the report of the Most Eminent Relator, and after hearing the voice and the written opinion of the Reverend Father, the Promoter of the Holy Office, after mature deliberation, decided to respond: Affirmative, that is, that a Commission should be appointed for the introduction of the cause of the two hundred and thirteen Servants of God: John Mary du Lau, Archbishop of Arles; Francis Joseph de la Rochefoucauld, Bishop of Beauvais; Peter Louis de la Rochefoucauld, Bishop of Saintonge, and their companions, who are described alphabetically below: Abraham Vincentius, Alricy Andreas Abel, André des Pommerays Daniel Ludovicus, Andrieux Renatus Maria, Angar Andreas, Aubert John Baptist Claudius, Balmain Francis, Balzac Peter Paul, Bangue John Peter,

[*Latin ed. p. 70*]

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Barreau de la Touche, Lewis; Barret, Lewis Francis Andrew; Beaupoil de Saint-Aulaire, Anthony Claudius; Bécavin, Joseph; Benoist, Lewis Remigius; Benoist, Lewis Remigius Nicholas; Benoit, John Francis Mary, also called Vourlat; Béraud de Péron, Charles Jeremiah; Bernard, John Charles Mary; Binard, Michael Andrew Sylvester; Bis, Robert; Bize, Nicholas; Bochot, Claudius; Boisgelin de Kerdu, Thomas Peter Anthony; Bonnaud, James Julius; Bonnel de Pradal, John Francis; Bonze, Peter; Bottex, John Baptist; Boubert, Lewis Alexius Mathias; Boucharen de Chaumeils, John Anthony; Bous de la Villeneuve de la Viliecrohain, Maturinus Nicholas; Bousquet, John Francis; Bouzet, Anthony Charles Octavian; Briquet, Peter; Brisse, Peter; Burté, John Francis; Capeau, John Andrew; Camus, Charles; Carón, John Charles; Caupenne, Bertrand Anthony; Cayx, also Dumas, Claudius; Chapt de Rastignac, Armandus; Charton de Milou, John; Chaudet, Claudius; Chevreux, Ambrose Augustine; Clairet, Nicholas; Colin, Claudius; Colin, Nicholas; Costa, Savior; Cucsac, Bernard Francis; Danois, Lewis; Dardan, Francis; Delfaut, William; Deruelle, Maturinus Victor; Desbrielles, Sebastian; Desprez de Roche, Gabriel; Dubray, Thomas Nicholas; Dubuisson, Thomas Renatus; Dufour, James; Dumasrambaud de Calandelle, Francis; Duval, Dionysius Claudius; Duval, John Peter; Ermes, Henry Hyppolitus; Falcoz, Joseph; Fangousse de Sartret, James; Fauconnet, Marcus Anthony Philip; Fautrel, Gilbert John; Felix, Eustachius; Fontaine, Claudius; Foucauld de Pontbriand, Armandus; Fougères, Philibert; François, Lewis Joseph; Friteyre-Durvé, James; Gagnières des Granges, Claudius Francis; Galais, James Gabriel; Gardette, Michael Francis; Garrigues, Peter John; Gaudreau, Nicholas; Gauguin, Peter; Gauthier, Lewis Lawrence; Gervais, Peter Lewis; Gillet, Stephen Michael; Girault, George; Giroust, George Jerome; Goizet, John; Grasset de Saint-Sauveur, Andrew; Gros, Joseph Mary; Gruyer, John Henry; Gué, Charles Francis; Guerin, Peter Michael; Guerin du Rocher,

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Peter; Guerin du Rocher, Robert Francis; Guesdon; Guillaumot, Francis; Guilleminet, John Anthony; Guillon de Ker anrun, Ivon Andrew; Hébert, Francis Lewis; Hédouin, Julian Francis John; Hénocq, Peter Francis; Herque du Roule, Eligius; Hourrier, James Stephen Philip; Huré Sanctes; Hurtrel, Charles Lewis; Hurtrel, Lewis Benjamin; Jannin, John Baptist; Joret, Peter Lewis; Lacan, John; Laisant, John Peter; Laisant, Julian; Lande, James; Landry, Peter; Lan-

[*Latin ed. p. 71*]

St. Congregation of Rites 71: Petrus Alexander, Lanfant Anna Alexander Carolus Maria, Lanier Aloisius Ioannes Matthaeus, Laporte Claudius Antonius Rodulphus, Lanchon Gilles Ludovicus Symphorianus, Laugier de Lamanon Franciscus Ludovicus, Laurent, (de) Lavèze Belay Ioannes Iosephus, Leber Michael, Lebreton Carolus Richardus, Lefranc Franciscus, Leclercq Guilelmus Nicolaus Ludovicus, Leclercq Petrus Florentius, Lefebvre Olivierus, Lefebvre Urbanus, Legrand Ioannes Carolus, Lejàrdinier Deslandes Iacobus Iosephus, Lemaître Ioannes, Lemercier Michael Iosephus, Leroy Ioannes Thomas, (le) Livec Franciscus Hyacinthus, Londiveau Franciscus Caesar, Longuet Ludovicus, Loublier Martinus Franciscus Alexius, (de) Lubersac Iacobus Franciscus, Luzeau de la Mulonnière Henricus Augustus, Maignien Gaspar Claudius, Maineaud de Bisefranc Claudius Sylvanus, Marchand Ioannes Philippus, Marmotant de Savigny Claudius Ludovicus, Martin, Massey Renatus Iulianus, Massin Ioannes, Mauduit Ludovicus, Méallet de Fargues Franciscus Ludovicus, Menuret Iacobus Alexander, (le) Meunier Iacobus Ioannes, Millet Henricus Ioannes, Monge Ioannes Maria, Mounier Franciscus Iosephus, Monsaint Thomas Ioannes, Morel Ioannes Iacobus, Mouffle Maria Franciscus, Nativelle Ioannes Baptista, Nativelle Renatus, Nezel, Nogier Mathias Augustinus, Oviefve Iosephus Ludovicus, Pazery de Thorame Iosephus Thomas, Pazery de Thorame Iulius Honoratus Cyprianus, Pazery de Thorame Petrus Franciscus, Pellier Ludovicus, Pey Franciscus Iosephus, Philippot Ioannes Michael, Ploquin Petrus, Pottier Petrus Claudius, Ponse Claudius, Pontus Ioannes Baptista Michael, Poret Renatus Nicolaus, Porlier Augustinus, Poulain de Launay, Psalmon Petrus Nicolaus, Queneau Ioannes Robertus, Rabé Iacobus Leonorus, Rateau Ioannes Iosephus, (de) Ravinel Stephanus Franciscus Deodatus, Regnet Petrus Robertus Michael, Rey de Kervisic Ivon Ioannes Petrus, Rigot Ludovicus Franciscus, Robert de Lézardière Iacobus Augustinus, Rosé Ludovicus Franciscus, Rostain Ioannes Caesar, Rousseau Claudius, (le) Rousseau Vincentius Iosephus, Roussel Nicolaus Carolus, Royez Marcus Ludovicus, (de) Salin de Niart Franciscus Urbanus, (de) Saint-Clair Guyard Ioannes Ludovicus, Saint-James Petrus, Samson Ioannes Henricus Ludovicus, Savine Ioannes Antonius, Schmid Iacobus Ludovicus, Seconds Ioannes Antonius, Séguin Ioannes Antonius Barnabas, Simon Ioannes Petrus, Tessier Ioannes

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Baptista Maria, Texier Iosephus Martialis, Thierrey Ioannes Iosephus, Thomas, called Lupus, Bonnotte, (de) Turmenyes Petrus Iacobus, Urvoy Renatus Iosephus, Valfons de la Calmette Carolus Regis Matthaeus, Vareilhe Duteil Franciscus, Veret Carolus Victor, Verrier Petrus Ludovicus Iosephus, Verrón Nicolaus Maria, (de) Villette.

[*Latin ed. p. 72*]

Acts of the Apostolic See - Commentary U 72. Officially: John Anthony Joseph, William Violard, Vitalis Peter-James Mary, Joseph Volondat. Regarding the remaining three Servants of God, Louis Dufour, Dubois, and Gaubert, the investigations are being extended and supplemented. January 18, 1916. Subsequently, these matters were reported to His Most Holy Lord Benedict XV, Pope, by the undersigned Cardinal, Pro-Prefect of the Congregation for Sacred Rites. His Holiness, having approved the rescript of the aforementioned Sacred Congregation, deigned to sign with his own hand the commission for the introduction of the cause for beatification or declaration of martyrdom of the aforementioned two hundred and thirteen Servants of God: John Mary du Lau, Archbishop of Arles; Francis Joseph de la Rochefoucauld, Bishop of Beauvais; Peter Louis de la Rochefoucauld, Bishop of Santon; and their companions, on the 26th day of the same month and year. A. CARD. E P. PORTUEN. ET S. RUF., S. B. G. Pro-Prefect. H. © S. Alexander Verde, Secretary.

DECREE CONCERNING THE LAMP BEFORE THE MOST HOLY SACRAMENT.

Given that several local Ordinaries have reported that, due to particular circumstances, whether ordinary or extraordinary, olive oil cannot be obtained, or can only be obtained with great difficulty, due to a severe shortage or exorbitant price, for the purpose of maintaining the lamp burning before the Most Holy Sacrament, the Congregation for Sacred Rites, adhering to Decree No. 3121 of several Dioceses, dated June 14, 1864, and other subsequent declarations, including more recent ones, has decided to issue the following: "Having considered the circumstances mentioned and if these circumstances persist, it is to be left to the prudence of the Ordinaries to ensure that the lamp, which must burn day and night before the Most Holy Sacrament, is maintained, in the absence of olive oil, with other oils, if possible, such as vegetable oils, or with beeswax or a mixture thereof, and, as a last resort, even with electric light, if it pleases the Most Holy Sacrament."

These matters having been reported to His Most Holy Lord Benedict XV, Pope, by the undersigned Cardinal, Pro-Prefect of the Congregation for Sacred Rites, His Holiness, having approved the rescript of the aforemen-

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tioned Sacred Council,

[*Latin ed. p. 73*]

The Holy Congregation of Rites, in its decree 73 concerning the lamp to be lit in order to duly honor the Most Holy Sacrament, in the cases and manners previously explained, with paternal kindness remitted the entire matter to the prudent judgment of the Ordinaries, with the necessary and opportune faculties. Contrary opinions notwithstanding. Dated February 23, 1916. A. CARD. E P. PORTUEN. AND S. R. U. F., S. R. G. Pro-Prefect. L. ffi S. Alexander Verde, Secretary.

III. DECREE CONCERNING THE NUMBER OF PRIESTS AND SACRED MINISTERS FOR THE CONSECRATION OF HOLY OILS.

NUMBER IN BENEDICTION AND CONSECRATION. Since, due to the present, immense war, priests and sacred ministers who are required for the blessing and consecration of the holy oils, according to the Roman Pontifical, being devoted to military service and constrained thereby, are lacking to such an extent that only a few can attend the sacred ceremonies, some sacred prelates have earnestly implored Our Most Holy Lord Benedict XV to deign to grant a dispensation, in these circumstances, from the prescribed number of priests and sacred ministers, in the case and for the purpose stated. Furthermore, His Holiness, most graciously accepting these prayers, which were presented by the undersigned Cardinal, Pro-Prefect of the Sacred Congregation of Rites, has deigned to grant that the Most Reverend Archbishops and Bishops, within the boundaries of the belligerent nations, may, this year and during the shortage of clergy resulting from this war, perform the consecration of the holy oils with the number of priests and sacred ministers who can be found for the needs of the place and the circumstances; provided, however, that the number shall not be less than three for each degree, with the faculty of substituting acolytes for lacking subdeacons. Contrary opinions notwithstanding. Dated February 23, 1916. A. CARD. E P. PORTUEN. AND S. R. U. F., S. R. G. Pro-Prefect. L. © S. Alexander Verde, ACTA, vol. VIII, n. 3. - 4-3-916. Secretary.

[*Latin ed. p. 74*]

Acts of the Apostolic See - Official Commentary 74 IV QUESTIONS posed by the Sacred Congregation of Rites, and the following doubt was resolved: In the Decree of the Sacred Congregation, dated October 28, 1913 (title I, number 2), it is written: "Where the external solemnity of feasts which had hitherto been perpetually attached to a particular Sunday is celebrated on that very Sunday, for the solemnity of a feast of the first class, all Masses are permitted; . . . for the solemnity of a feast of the second class, only one solemn or chanted Mass is permitted"; it is asked: I. Can the external solemnity, with the aforementioned privilege,

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be understood to be celebrated both on the aforementioned Sunday to which the feast was previously attached, and on another different Sunday following the feast? II. In churches where the aforementioned external solemnity is celebrated, can the Masses permitted by the aforementioned decree for that solemnity be celebrated only, or must they be celebrated? "And the Sacred Congregation of Rites, after hearing the opinion of a special Commission, considered that the following should be the answer to the proposed questions: To the first and second, affirmatively to the first part, and negatively to the second, that is, adhering to the terms of the Indult. And thus it responded and declared. February 12, 1916. A. CARD. E P. PORTUEN. ET S. RUF., S. B. G. Pro-Prefect. L. © S. Alexander Verde, Secretary.

[*Latin ed. p. 75*]

Sacred Roman Rota, Acts 75 of the Tribunals. Sacred Roman Rota, Mohilovien. Matter of the Nullity of Marriage (Radziwill-Benardaki). During the happy reign of Pope Benedict XV, in the first year of his pontificate, on the 27th of July, 1915, the Most Reverend Fathers, Doctors Joseph Mori, presiding, Frederick Cattani, and Raphael Chimenti, Auditors *de turno*, in the case of Mohilovien – Nullity of marriage, between Michael Radziwill, the plaintiff, represented by his legitimate procurator, Advocate Vincent Sacconi, and Advocate Nazaren Ferrata, and Mary Benardaki, the defendant, with the assistance of her legitimate procurators, Advocate Charles Santucci, and Advocate Christopher Astorri, having heard the arguments presented by the defender *ex officio*, rendered the following final judgment. The Most Excellent Prince Michael Radziwill, born in the city of Berlin in the year 1870, where his parents resided, and subsequently raised in the Russian culture so that he might pursue a diplomatic career in that kingdom, a Roman Catholic by religion, in the year 1898, began to pursue with ardent love a Greek-Orthodox girl, Mary Benardaki, born in the year 1874, who, together with her parents, had resided for several years in Paris, at their own house, at number 65, Ghaillot Street. The Prince's family, being Roman Catholic, opposed this marriage due to the difference in both religion and social standing; nevertheless, Michael, around the middle of July of that same year, 1898, did not hesitate to enter into a betrothal with Mary; then, since he himself was already attached to the Russian Legation in the city of London, under the English government, and he knew that it would be difficult to find a Catholic priest who would be willing to bless the marriage after it had been performed according to the Greek-Orthodox rite, in accordance with Russian law, in order to overcome this obstacle, towards the end...

[*Latin ed. p. 76*]

76 Acta Apostolicae Sedis - The Official Commentary for the month of

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August stated that he requested Petrograd, together with his bride Mary, and her parents. There, he found a devout priest from the family of the Order of Preachers, whose name was Father John Lagrange: this priest first privately and secretly, in his own home, bestowed the nuptial blessing upon the couple, having, as he himself reports, obtained prior authorization from the Ordinary of Mohiloviensis; then, on September 2nd of the following year, the couple, accompanied by a group commonly known as "des Pages," approached the church of St. John the Melite for the celebration of the marriage before Father Lebedieff, a Greek Orthodox chaplain, and, after the completion of the schismatic rite, they proceeded to the adjacent and contiguous Catholic church for the celebration of the marriage according to the Catholic rite, which was performed with equal solemnity by the same Father Lagrange. After the subsequent double celebration of the marriage, the couple immediately, that is, on the same day, left the city of Petrograd and, after a journey of two or three months, arrived in the city of London. The couple lived together in mutual harmony and peace for several years, and children were also born from their marriage. But then, after the outbreak of disagreements, the couple finally separated from each other, with no hope of reconciliation. Later, the Prince, after a conversation with several theologians and experts in canon law, was informed that his marriage was subject to nullity, and around the beginning of September of the year 1909, he appealed to the Most Holy, presenting a petition for obtaining a declaration of nullity of the aforementioned marriage, and the Supreme Pontiff, on the 7th of the same month, granted the necessary and appropriate powers to the Apostolic Commission, and to the Tribunal of Rome, to examine and resolve the proposed question. The process, as it was carried out in various ecclesiastical courts for the collection of testimonies and documents, was lengthy: and therefore, only now is the controversy presented for discussion under the usual formula of doubt: Does a marriage exist in this case? In law. - With regard to the law, the Fathers noted that in the Russian Empire, the decree of the Council of Trent concerning marriage, although generally in force, was not in effect in one or both dioceses, as can be seen from the Joderian Index and as reported by Cardinal Gasparri in his appendix, section V, on marriage, together with other authors. However, this exception does not include the diocese of Mohiloviensis, as stated in a certain testimony from the Bishop of Attalia, formerly a suffragan of the Archbishop of Mohiloviensis, presented in another marriage case before this tribunal which did not have a favorable outcome: which...

[*Latin ed. p. 77*]

The Roman Rota, in its judgment 77, states as follows: "The undersigned testifies to the decree of the Council of Trent: 'Although it is in force throughout the entire Archdiocese of Mohiloviensi.' However, the Tridentine form applies only to Roman Catholics within that empire, and

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not to marriages of heretics or Orthodox Christians, whether they contract marriages among themselves or with Roman Catholics. For the regulation previously granted by Pius VI on March 2, 1780, for the territory of the Russian Empire, was subsequently extended by Gregory XVI on August 19, 1844, through a decree of the Sacred Congregation for Extraordinary Affairs, to include marriages of heretics and mixed marriages throughout the entire Russian Empire, with the following oral declaration: 'It must be stated that mixed marriages which have been initiated within the Russian Empire and in the Kingdom of Polonia, contrary to the prescription of the Council of Trent, must be prudently tolerated and, although illicit, considered valid, unless some other canonical impediment is present.' Given these circumstances, and considering the specific case of a Roman Catholic groom who comes from a place where the Council of Trent was not promulgated, such as Londini, to a place where it is in force for Catholics, and conversely, of a bride of the Greek Orthodox religion, who comes from a place not exempt, since in Parisiis the Tridentine form also applies to heretics, to a place where the aforementioned form grants immunity to both heretics and mixed marriages, it is now necessary to examine how the Tridentine law applies or obligates in this matter. Indeed, this law is territorial and personal, or local and personal. Cardinal d'Annibale, in *Summa Theologiae Matrimonialis*, volume 3, § 457, states the following regarding this matter: 'The decree of Trent is real and personal: real, because it establishes the form of the contract which gives it validity; personal, because it renders the spouses incapable of contracting without a priest and witnesses, and therefore it follows them, even if they do not intend to act fraudulently in the place where they contract the marriage, unless one of them has established a quasi-domicile there.' This is clearly deduced from the famous response given by the Sacred Congregation on September 5, 1626, approved by Urban VIII: 'Can inhabitants, both men and women, of a place where the Council of Trent has been promulgated regarding the matter of marriage, who are passing through a place where said Council has not been promulgated, and who retain their domicile, validly contract marriage in this place without a priest and witnesses? What if these aforementioned inhabitants, both men and women, transfer themselves solely in intention to contract marriage without a priest and witnesses, without changing their residence? To the first and second questions, it is not a legitimate marriage for those who transfer themselves and pass through with fraud.' Thus, the Tridentine law, with regard to marriage, follows the person as closely as a shadow follows the body, even in a territory exempt from it, as long as they retain their domicile in the territory subject to it.

[*Latin ed. p. 78*]

78 Acta Apostolicae Sedis - Official Commentary. It is not required that

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those who transfer themselves to an exempt place with the intention of circumventing the law, as some have incorrectly opined, for, as Cardinal D'Annibale states (loc. cit., in note, n. 42): "Fraud is understood by the act itself and by the thing done, if, without having established a domicile or quasi-domicile there, they 'contract marriage,' as evidenced by the notification of Benedict XIV, 33, n. 8, and by the decree of the Sacred Universal Inquisition, approved by the Most Holy Fathers on April 22, 1858, in which this question was discussed; and in the aforementioned note, several decisions of the Sacred Congregation and another decree of the Sacred Universal Inquisition, dated May 17, 1804, are also added, likewise approved by the Most Holy Fathers, in confirmation of the established doctrine. Consequently, both Catholics and heretics coming from a place where, by reason of domicile or quasi-domicile, they are subject to the law of Trent, have no other way of avoiding the law than to establish a domicile or quasi-domicile in the exempt place, abandoning or relinquishing the former, except for vagrants, of whom we shall speak later. But the obligation of the law of Trent, since it affects not only the person but also the place, and by this local quality, the law binds not only the inhabitants and those with a domicile in the place in question, but also foreigners or pilgrims, or improperly called vagrants, who wish to be joined in marriage there; for these are subject to the laws, whether written or unwritten, of the places where the contract is made, with regard to the formalities, as stated in chapter 12 on contracts, and in law 6 and following on evictions (see Sánchez, de mat., vol. I, disputation 18, n. 15 and 26). Hence the saying: "Locus regit actum" (the place governs the act); therefore, although they may come from an exempt place, by reason of the place through which they pass, they are bound to observe the Tridentine form in the celebration of marriage, and if they secretly contract it without the delegation of the proper pastor or Ordinary of their domicile or quasi-domicile, they do not validly contract. The proper pastor of the spouses is not he in whose parish one temporarily resides, but he in whose district one has a domicile or quasi-domicile, except for vagrants, whether we are speaking of those who have no domicile or quasi-domicile, namely, vagabonds, or of those who, having abandoned their former domicile, have not yet acquired a new one, or those improperly called vagrants by assimilation, as distinguished by F. Deshayes in his Treatise on clandestine marriage, question 39; for such vagrants, the proper pastor is he in whose parish they temporarily reside, and these must not be confused with foreigners or aliens who still retain their domicile or quasi-domicile elsewhere, for whom the proper pastor is that of the domicile or quasi-domicile and not simply of the place of temporary residence (Benedict XIV, in his ecclesiastical history, 33, n. 10). As Wernz states in his opinion in the Parisian case, elaborated for his own proposition dated August 20, 1898,

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and decided according to his opinion dated January 28.

[*Latin ed. p. 79*]

The Roman Rota, in the year 1899, ruled that only three titles are sufficient to establish a proper marriage, namely, domicile, quasi-domicile, and vagrancy; a fourth title, namely, simple residence, is not sufficient. This doctrine concerning such non-vagrant individuals coming from a place exempt from the Tridentine law to a place not exempt, is confirmed in a ruling published by Father Tarquini in another case in Paris in the year 1868: "Non-vagrants are validly married in a place where the Tridentine law is received, in the absence of a proper pastor and witnesses, even though the Tridentine law was not received in their own diocese... Indeed, even if in a given case a non-vagrant does not intend to establish a domicile or quasi-domicile in a place where the Council's law is received, but contracts marriage before the local pastor and witnesses, he would still act not only illicitly, but also invalidly, if he did not contract before his own proper pastor." The reason is that, although these individuals are not personally bound by the force of the decree, since they are not received in the place where they have a domicile or quasi-domicile, they are nevertheless locally bound by the force of the same decree, as precisely Benedict XIV stated in his declaration for Holland concerning heretics domiciled there and subsequently traveling to Catholic regions.

But what is to be said if one of the contracting parties is exempt from the Tridentine law, can such a contract be considered valid, even without observing the Tridentine form? Certainly, the two spouses, as parties to the contract, are bound by the form of the contract; therefore, since the contract of marriage is entered into, the privilege of exemption from the Tridentine law, which applies to one party, can be communicated to the other party who is not exempt, as explained by Cardinal D'Annibale, book 1, chapter 452, and as he states and affirms in chapter 460: "He who contracts marriage exempt from the Tridentine law with one who is subject to the Tridentine law, in a place where this law does not apply, or where the declaration of Benedict XIV granting the privilege is in force, communicates this exemption to the other party, whether he is a Catholic, a schismatic, or a heretic, and they contract validly, according to the decree of the Holy Office of June 2, 1803" (cf. note no. 15 cited, chapter 460). The same is taught by Benedict XIV (de Syn. dioec, book 6, chapter 6, no. 12): "Since one of the spouses is exempt from the law of the Tridentine Council, either by reason of the place in which he lives, or by reason of the society in which he lives, the exemption which he enjoys is communicated to the other party, by reason of the individuality of the contract, by virtue of which the exemption which applies to one of the parties is extended to the other, according to even civil laws, and is communicated to him." Furthermore, Cardinal Gasparri adds (book 1, no. 1167): "Before Benedict XIV, some admitted this principle,

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others denied it; but after Benedict XIV, all, both in the forum and in the schools, maintain it."

[*Latin ed. p. 80*]

80. The *Acta Apostolicae Sedis*, the official commentary, states that in order for a part that is exempt from a certain law to communicate the privilege of exemption to another part that is not exempt, the exemption from the law of Trent concerning the form of marriage must be complete, whether it is territorial, personal, and non-personal, as Garriere, *de matr.*, n. 1190, and Scherer in *Manualis Ms eccl.*, vol. 2, n. 209, falsely asserted, denying the local force of the law of Trent against the common law. Wernez, in the aforementioned opinion, n. 32, completely rejects this view. Indeed, among other things, this is derived from the declaration of the Sacred Congregation, dated December 14, 1859, which it is helpful to quote here: "The law of Trent concerning 'clandestine marriage' must certainly be promulgated in each parish; but once promulgated, and with its continued observance, the law affects the territory and, to speak adequately, is both local and personal; this is confessed by all. To the extent that it affects the territory, it binds those who are to be married there; to the extent that it is personal, it binds those who, having a domicile or quasi-domicile in the place where the decree of Trent has been promulgated and is in force, wish to contract marriage in another place where it is not in force." The first part of the last sentence, as is evident, refers to those coming from a place exempt from the law of Trent to a place that is not exempt, and states that they are bound by the law unless they are excepted by a special title. Therefore, Wernez, at the end of the aforementioned opinion, proposes the following questions: "Whether inhabitants, both men and women, of a parish in which chapter [of the Council of Trent] has not been promulgated, who travel to a parish in which the said chapter has been promulgated, retaining their domicile, can validly contract marriage in this new parish: 1. without any priest and witnesses, or, 2. according to the custom of 'vagrants,' at least before a simple resident priest and witnesses, or 3. in order to validly contract marriage, must they necessarily contract either before the priest of their domicile or at least by a delegate of him, or before the priest of their true domicile or quasi-domicile acquired in the parish to which they have traveled?" He answers these questions by stating: "Negatively to the first and second; affirmatively to the third." Nothing prevents the doctrine alleged by the defender of the bond from being given by Vecchiotti in his *Institutes*, vol. 3, § 106, near the end, as if it were not applicable in this case. This author deals with those who, coming from a place where the law does not obligate, contract marriage in a place where the law also does not obligate, and thus responds: "In the third case, the marriage is valid even if neither has acquired a domicile there: e.g., a man and a woman, whether Catholic or not, domiciled in England, travel to Baltimore and

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there, without either having acquired a domicile, secretly contract marriage: the marriage is valid. The same must be said if only one of them is from a place where the law does not at all obligate, e.g., if, traveling from Baltimore, one..."

[*Latin ed. p. 81*]

The Roman Rota has ruled: "If a marriage is contracted in Anglia, where one party resides, or has a quasi-domicile, and the other party resides in Italia, and both places are subject to different laws regarding marriage, then the validity of the marriage depends on the law of the place where the marriage is celebrated." This principle applies even if only one of the parties is a heretic, or if one part of the country is heretical and the other is not. Thus, two non-Catholics, or one Catholic and one heretic, domiciled in Holland, may travel to Hibernia and contract marriage there in the manner described above. It is always sufficient that one party is not bound by the law, given the principle by which the exception is communicated to the other party. In the final case, the validity of the marriage is not determined by the local immunity of the Catholic under the Tridentine law, because the Catholic is bound in both places, while the heretics are not bound by the existing privilege of the Benedictine declaration, a privilege which, due to the nature of the contract, is communicated to the other Catholic party, even though the latter is not otherwise eligible. However, our case is very different, because both spouses are subject to the Tridentine law, namely, the groom, although domiciled in a place exempt from the law, such as Londinum, has nevertheless moved to Petropolis to celebrate the marriage, in which city the Tametsi decree is in force for Catholics, and the bride, although coming from a place not exempt from the law, even for heretics, such as the city of Parisiensis, and although she herself is a heretic and the law for heretics and schismatics does not apply in Petropolis, she cannot nevertheless avail herself of the exemption unless she acquires a new domicile or quasi-domicile there, which would free her from the personal and territorial obligation contracted in the place not exempt from the Tridentine law. Therefore, since both spouses are subject to the Tridentine form, it would be inappropriate to invoke the privilege of exemption for the schismatic or heretical party. Furthermore, it is not relevant that, in a similar case, the Tridentine law did not bind Michael Radzwill, a foreigner coming from a place exempt from the law and passing through Petropolis, because in that place the same law was not in force for all, but only for Catholics contracting marriage among themselves, and not with heretics, for whom the Tridentine form did not apply in that place; in that case, it was not a matter of a heretic or schismatic domiciled in Petropolis, but rather one coming from another place not exempt from the law, from which he had not abandoned his previous domicile or quasi-domicile. Therefore, Cardinal Gasparri, in book 1, chapter 1191, states: "From what has been

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said, we can resolve the case of a foreigner or vagrant who, coming from a place where the law does not apply, travels to one of these places where marriages between heretics are valid, even though the law for Catholics is in force, and there contracts marriage clandestinely. If the foreigner or vagrant is a Catholic, or if he marries a Catholic, the marriage is null, or if he marries a heretic, the marriage is valid, although illicit. If, however, the foreigner or vagrant is a heretic, it is always valid, even if it is contracted with a Catholic..." But if the foreigner or vagrant is a heretic...

[*Latin ed. p. 82*]

82 Acta Apostolicae Sedis - Official Commentary: "From a place where the Tridentine decree is in force, a marriage 'may also be null.'" Indeed, if they contract marriage with a Catholic, the following holds (cited author, in subsequent paragraphs, no. 120): "because the Tridentine law is 'both local and personal, and insofar as it is personal, it affects individuals, following them even in a place where it has not been promulgated.'" Therefore, a heretical person cannot communicate to the other party the privilege of exemption from the Tridentine law, or from the Catholic law, which they do not possess, due to the retention of domicile in a place not subject to the Tridentine law; otherwise, it would be different if the other spouse, to whom the marriage is being contracted, were also a heretic, because in this case, both parties would share in the privilege. Furthermore, another difficulty arises from this, namely that Maria, departing from Paris for St. Petersburg to celebrate her marriage, having left her prior domicile, and thus becoming exempt from the Tridentine law, did not commit any fraud, according to the decree of Urban VIII, because this fraud must be purged beforehand by fixing a domicile in the place where the marriage is contracted, according to the declaration of the Holy Office on June 7, 1867, reported by Cardinal Gaspard, cited, no. 1205: "According to what is established in this decree (of Urban VIII), those who have and maintain a domicile in a place where the Tridentine law is in force, cannot validly enter into marriage in a place where it is not in force, unless they have fixed there not only a residence, but also a true domicile, in order to completely purge any fraud that may have occurred." Moreover, this presumption of non-alteration of domicile before the marriage, especially in the case of children living with their parents, is consistent with Roman law, from law 32 of the Institutes of Gaius: "She who is betrothed does not change her domicile before the marriage." Therefore, Scherer concludes (loc. cit., p. 139): "The competence of the parish priest... ceases in the case where the celebration of the marriage effects a change of domicile, only after the marriage has been contracted." In fact: Regarding the retention of domicile in the city of Paris on the part of Maria Benardaki at the time of her marriage in St. Petersburg to Prince Michael Radziwill, the Fathers of the Lord noted the following. Since Maria Benardaki, even after reaching the age of majority and at the

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time of the marriage contract, still resided in Paris with her parents in their home, in order to prove that she did not request to celebrate the marriage in St. Petersburg in violation of the Tridentine law, it would be necessary to demonstrate that her father, Nicholas, maintained a domicile or quasi-domicile in that city, or that she herself had fixed it there, abandoning her paternal home; for a change of domicile is not presumed from a simple move to another place on account of marriage, given the uncertainty of such events, as recently alleged.

[*Latin ed. p. 83*]

The Roman Rota, in its judgment 83, law 32, addressed to the municipal authorities. However, the aforementioned Fathers of the Church maintained that this could not be ascertained from the testimonies presented and the documents examined. Indeed, Nicholas' father, Demetrius, was called from Greece as an architect around the year 1864 to oversee the construction of a Greek-Orthodox church in Petrograd, and he established a residence there. However, after the father's death, Nicholas sold this house in 1877 and acquired another one on the Chaillot street, number 65, in Paris, to which he moved his household and belongings, as testified by the aforementioned Mary in a certain letter (Summary, no. 80). She resided there during the time of her daughter's marriage; therefore, Nicholas had already sent news from his original domicile for a long time. Furthermore, the testimonies of Helen of Gontade and Vera of Talleyrand, respectively, the sister and aunt of Mary, should not be disregarded. They state that the house in Petrograd was jointly owned by Nicholas and his brother, Constantine, and that it contained a workshop and two sections (floors) for their respective residences. Firstly, the name of Nicholas does not appear in the Russian police records as a resident, and from other testimonies, it is evident that whenever he visited Petrograd, he stayed in public lodgings. Secondly, if this house and workshop truly belonged to Nicholas, even jointly with his brother, there should have been some record of his name in the tax register. However, in the year 1898, there is no record of Nicholas ßenard in the public tax office of Petrograd; moreover, it is evident that at that time, the aforementioned house belonged to another owner, as confirmed by a public document (Summary, no. 84). Therefore, it is more likely that the house, about which the witnesses speak, is confused with the one that belonged to the architect Demetrius, Nicholas' father, and which was sold in 1877. Although some witnesses speak of Nicholas' annual trips to Petrograd for business matters, this does not constitute a quasi-domicile, as stated by Cardinal D'Annibale (loc. cit., vol. 1, § 84): "If someone comes to a place as a traveler, or for the purpose of a lawsuit or business, and after completing these matters, or for the purpose of seeking a service, without being asked, departs, even if he happens to stay there for more than a year, contrary to the opinion of the inhabitants of that place, it is not

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truly said that he has acquired a quasi-domicile there." Furthermore, there is no evidence that Mary had any intention of establishing a domicile in Petrograd, nor that she had already fixed her residence there at the time of her mother's marriage. On the contrary, it can be inferred that she stayed in Petrograd for only two or three weeks before the marriage and then immediately left. Moreover, the Fathers of the Church have not established that Prince Michael Radziwill maintained a domicile or quasi-domicile in Petrograd during the time of the wedding, to which city he traveled to celebrate the marriage. At that time, as evidenced by an official document (Summary, no. 63), he was registered as...

[*Latin ed. p. 84*]

Acts of the Apostolic See - Official Commentary 84, appended to the Russian legation before the English government in the city of London, where it had, as it were, a quasi-domicile, concerning matters reported by Cardinal Gasparri (loc. cit., n. 1105, ed. 3), relating to marriage. Therefore, since the bride resided in Paris and the groom in London, and neither parish priest, either by himself or by delegation from them, had presided at the marriage contracted by them in Petrograd, it is evident that the marriage suffers from a defect of form, according to the Tridentine norm to which they were bound, as discussed above; nothing is relevant to the supposed delegation granted by the Archbishop of Mohilev, even if it were admitted for a time, because he was not their Ordinary with regard to marriage, since they did not belong as parishioners to the city of Petrograd. Furthermore, we do not wish to dwell further on this matter, since the defender of the marriage admits this defect of domicile or quasi-domicile in his observations for the present. Having diligently considered all of these things in law and in fact, invoking the name of Christ, We, the undersigned Auditors of Tournon, sitting for the tribunal and having only God before our eyes, decide, declare, and definitively sentence, answering the proposed question: Affirmative, that is to say, that the marriage is null in this case: We renounce the legitimacy of the child born, taking into account the good faith of the parties. We decree that the judicial expenses be borne by half by the lawyers of the plaintiff, and by the other half by the lawyers of the defendant. Thus we declare, ordering the Ordinaries of the places and the officials of the tribunals to whom it pertains to enforce this our definitive sentence, and to proceed against those who resist, according to the norms of the sacred canons, and especially chapter 3, session 25 of the Council of Trent, using the means of enforcement that are more suitable and effective for the circumstances. Rome, at the seat of the Tribunal of the Holy Roman Rota, on the 27th of July, 1915. Joseph Mori, Presiding. Frederick Cattani. Raphael Chimenti. L. © S. From the Chancery of the Holy Roman Rota. Sac.

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T. Tani, Notary.

[*Latin ed. p. 85*]

Secretaria ACTA Status 85

OFFICIORUM SECRETARIA STATUS

EPISTOLA AD R. P. H. NORUM ET « DESQUEYROUS, PROVINCIAE THE IMELDIST PROCURATOREM HIBERNIAE, »

DE REVERENTER GENERALEM EPHEMERIDIBUS EXHIBITIS, SODALIUM « THE GRATIAS IRISH DOMINICIAROSARY » PERSOLVENS.

My Most Reverend Father,

It is with a most special benevolence that the Supreme Pontiff Benedict XV has deigned to accept the tribute which you, on behalf of the Reverend Fathers of the Dominican Province of Ireland, have offered to Him, concerning the publications "The Irish Rosary" and "The Imeldist."

Inheriting the Apostolic solicitude of His illustrious predecessors, in particular Leo XIII and Pius X of blessed memory, concerning devotion to the Holy Rosary and the practice of frequent Communion, the Holy Father charges me to express, through your ministry, His august satisfaction to the Directors of these excellent publications for the zealous and enlightened effort with which they strive to promote these powerful means of regeneration and sanctification.

For more than twenty years, the publication "The Irish Rosary" has demonstrated its vitality. In a great number of souls, it ceaselessly awakens and develops, with fruitful results, the cult of Mary Immaculate, Queen of the Most Holy Rosary, and filial recourse to the all-powerful intercession of her maternal protection.

As for the gracious publication "The Imeldist," although it has existed for only five years, it already penetrates into 40,000 families and institutions, under the patronage of the Blessed Imelda, the young Dominican virgin, a victim of her love for the Eucharist, contributing with ever-increasing success to making Jesus, the Host, known, loved, and ardently desired by children, and thus realizing the very thought of the divine Savior.

[*Latin ed. p. 86*]

86 Acta Apostolicae Sedis - Commentarium Officiale.

In his tempestuous times which we are enduring, in which, more than ever, it is necessary that souls be strongly tempered, the Supreme Pontiff delights in bestowing paternal encouragements upon the directors of the aforementioned publications. For this purpose, and as a pledge of the most abundant heavenly favors, the Holy Father wholeheartedly grants to these same directors, as well as to the authors and readers of "The Irish Rosary" and "The Imeldist," the benefit of the Apostolic Blessing. I beseech you, my

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most Reverend Father, to accept the assurance of my entire devotion in Our Lord. From the Vatican, the 9th of February, 1916.

P. GARD. GASPARRL.

[*Latin ed. p. 87*]

From the Roman Curia Diary 87

DIARY OF THE ROMAN CURIA

SECRETARY OF STATE

By means of letters from the Secretary of State, the Holy Father has deigned to appoint:

February 14, 1916. — His Eminence Cardinal Filippo Giustini, Protector of the Institute of Franciscan Sisters of the Immaculate Conception of Barcelona. — Reverend Father Angelo Angelucci, of the Servants of Mary, Consultor of the Holy Congregation of Rites.

February 16. — Monsignor Vincenzo La Puma, Under-Secretary of the Holy Congregation of Religious.

February 23. — Monsignor Domenico Taccone Gallucci, titular Archbishop of Constantia of Scythia, Consultor of the Holy Congregation of the Council.

February 26. — His Eminence Cardinal Domenico Serafini, Pro-Prefect of the Holy Congregation for the Propagation of the Faith. — His Eminence Cardinal Diomede Falconio, Prefect of the Holy Congregation of Religious.

By Apostolic Briefs, the Holy Father has deigned to appoint:

Assistants to the Papal Throne:

February 7, 1916. — Monsignor Giovanni Maria Pellizzari, Bishop of Piacenza.

February 9. — Monsignor Natale Bruni, Archbishop of Modena.

February 12. — Monsignor Giuseppe M. Salvador y Barrera, Bishop of Madrid-Alcalá.

Domestic Prelates of His Holiness:

February 9, 1916. — Monsignor Francesco Saverio de Maio, of the archdiocese of Sorrento.

February 10. — Monsignor Pietro Maria Malsou, of the diocese of Angers.

[*Latin ed. p. 88*]

88 Acta Apostolicae Sedis - Official Commentary, February 14, 1916. — Monsignor Calogero Minacapelli, of the diocese of Piazza Armerina. Febru-

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ary 19. — Monsignor Giuseppe Gioacchino de Almeida e Silva, of the diocese of Campinas. — Monsignor Manuele Ribas de Avila, of the same diocese. HONORS With Apostolic Briefs, the Holy Father deigned to confer the following honors: The Grand Cross of the Order of Saint Gregory the Great: February 10, 1916. — To the Most Noble Prince Don Giuseppe Lancellotti. The Commander of the Order of Saint Gregory the Great: February 11, 1916. — To the Most Noble Giacomo, Marquis de Dampierre, of the diocese of Angers. The Commander of the Order of Saint Gregory the Great, civil class: February 23, 1916. — To the Most Noble Bonaventura Bassegoda y Amigó, of the diocese of Barcelona. The Knight of the Order of Saint Gregory the Great, civil class: February 8, 1916. — To the Most Noble Robert De Angeli, Secretary at the Ministry of Cults and Public Instruction in Hungary. NECROLOGY January 3, 1916. — Monsignor Tommaso F. Doran, titular Bishop of Alicarnassus, auxiliary of Providence. February 17. — Monsignor Pietro Goebl, titular Bishop of Sinop, auxiliary of the Bishop of Augusta.

[*Latin ed. p. 89*]

No. 4, April 3, 1916, Year VIII - Vol. VIII, ACTA APOS- TOLICAE SEDIS, OFFICIAL COMMENTARY. ACTA OF POPE BENEDICT XV. APOSTOLIC LETTER FROM THE VATICAN. I, CONCERNING THE ERECTION OF A VICARIATE AND THE ERECTION OF THE REGINA ECCLESIASTICAL PROVINCE, THE DIVISION OF THE BENEDICT DIOCESE, AND THE DIOCESE OF SAINT BONIFACE. THE BISHOP, SERVANT OF THE SERVANTS OF GOD, FOR PERPETUAL REMEMBRANCE. Among the principal concerns of the Apostolic See, it has always been to erect new dioceses and ecclesiastical provinces whenever the extent of the territory, the number of the faithful, the difficulties of travel, or other similar circumstances, require it in order to render pastoral care and vigilance more effective. And since it has been deemed useful to do so in other regions, it has also been considered expedient in the Canadian Dominion, so that the largest civil provinces, which constitute the Dominion itself, and which are held as quasi-states, being independent of each other and united by a single federal bond, may be endowed with their own hierarchy, so that each civil province may constitute at least one, its own and independent, ecclesiastical province. After maturely considering all these things, with the counsel of our Venerable Brothers who preside over consistorial affairs, and supplementing what is necessary, or what they may presume to be in their interest, We, by the fullness of Our Apostolic authority, in the aforementioned civil province of the Dominion, now called Saskatchewan, have decreed and established the erection of a new ecclesiastical province, separating the Regina and Prince Albert dioceses from the ecclesiastical province of Saint Boniface, and constituting the Regina diocese as a Metropolitan See, and assigning to it

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the diocese of Prince Albert.

[*Latin ed. p. 90*]

90 Acta Apostolicae Sedis - Official Commentary: Concerning the assignment of suffragan sees. Therefore, by these Apostolic Letters, we elevate the Church of Regina to the honor and dignity of an Archdiocese, granting it all the metropolitan rights and privileges pertaining to Metropolitan Churches, and we place the Diocese of Prince Albert under its jurisdiction. Furthermore, by these same Apostolic Letters, we constitute the Venerable Brother Oliver Eleazar Mathieu, hitherto Bishop of Regina, as Archbishop of the same Diocese, without the need for further Apostolic Letters. Moreover, we divide the extensive Diocese of Saint Boniface into two parts, reserving the eastern part, where the city of Saint Boniface is located, for the ancient Archiepiscopal See, along with the privileges and metropolitan rights which it previously enjoyed, except for the Dioceses of Regina and Prince Albert. The western part, beyond the Red River, where the city of Winnipeg is situated, we assign to a new Diocese, immediately subject to us and to the Archbishop, which we establish by these Apostolic Letters and which shall be called the Archiepiscopal See of Winnipeg.

The boundary line between these dioceses shall be that imaginary line which descends southward from the boundaries of the ancient Diocese of Saint Boniface, passing through the middle of Lake Winnipeg, until it reaches the mouth of the Red River; then, continuing southward along the middle course of the Red River, and passing beyond the towns of Saint Boniface and Winnipeg, until it reaches the point where it intersects a parallel line which separates the regions, commonly known as townships, IX and X, as determined by the official census of the Government of Canada; then, this same parallel line proceeding westward shall be the boundary line of both dioceses until it intersects the meridian line established by the aforementioned official census between sections, commonly known as ranges, XII and XIII west, that is, west of the principal meridian, located: finally, from this point, the boundary line shall again proceed southward until it reaches the civil boundaries of the Dominion of Canada and the United States of America, coinciding with the boundaries by which the county of Souris is separated from the counties of Macdonald and Lisgar, within the civil province of Manitoba.

We decree that the Archbishop of Winnipeg shall enjoy all the rights, privileges, and prerogatives which other Archbishops possess, and therefore, after the proper request has been duly made in the Consistory, we grant him the use of the Pallium and the Cross to be carried before him, within the boundaries of his own Archdiocese. For the endowment of the Church of Winnipeg, we assign to it all goods and revenues, including those acquired by any means, which accrue to the archiepiscopal treasury, along with the Archbishop, at his discretion, the faculty of designating the

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most suitable of the various churches within the city of Winnipeg as the Cathedral.

[*Latin ed. p. 91*]

The acts of Pope Benedict XV, number 91, and other matters necessary or useful for the proper governance of the archdiocese, according to the sacred canons, are to be established and determined. Furthermore, concerning the governance, administration, endowment, and taxation of the Archdiocese of Winnipeg, we decree that these matters belong to the power, authority, attributions, offices, rights, and duties of the Archbishop, to the erection of the Cathedral Chapter, or the College of Consultors, to the institution of the diocesan seminary, to the obligations, rights, and other matters of the faithful and clergy, all of which are to be observed according to the sacred canons, especially those established by the Council of Trent, and furthermore, according to the first published decrees of the Plenary Council of Quebec. We also command that all documents, rights, and acts pertaining to the Archdiocese of Winnipeg and its faithful be delivered from the chancery of the Metropolitan Church of Saint Boniface to the chancery of this new archdiocese as soon as possible, so that they may be religiously preserved in its archives. Furthermore, We and the Apostolic See reserve the faculty of making a new division or circumscription of this diocese, whenever it may seem expedient in the Lord. With all the foregoing provisions, for their faithful execution, we appoint the Venerable Brother Peregrine Francis of Stagnoli, Archbishop of L'Aquila, and Apostolic Delegate in the Canadian territory, granting him the necessary and appropriate powers, including the power to delegate to any designated and definitively appointed ecclesiastical dignity, and to definitively decide on any difficulty or opposition that may arise in the execution of these matters, and furthermore, we impose upon him the obligation of transmitting to the Sacred Congregation Consistorial within six months an authentic testimony of the completed execution, so that it may be preserved in the archives of that same Sacred Congregation. All contrary provisions, even those specifically and expressly mentioned, are hereby set aside. Given at Rome, at Saint Peter's, in the year of Our Lord one thousand nine hundred and fifteen, in the second year of Our pontificate, on the fourth day of December. Expedited on the fourteenth day of March, in the second year. Place: K& Plumbi. O. CARD. CAGIANO DE AZEVEDO, S. B. E., Chancellor. >£ C. CARD. DE LAI, S. C., Consistorial Secretary. Julius Campori, Apostolic Protonotary. Raphael Virili, Apostolic Protonotary. See also, *Lieg*, in *Annales Provinciales*, vol. XIII, n. 19. M. RIGGI, from the tabularium C. A.

[*Latin ed. p. 92*]

Acts of the Apostolic See - Official Commentary 92 II CONCERNING THE ERECTION OF THE NEW DIOCESE OF BENEDICT. "PORTUS NA-

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TIONALIS." THE BISHOP, SERVANT OF THE SERVANTS OF GOD, FOR THE PERPETUAL REMEMBRANCE OF THE APOSTOLATE. The apostolic office, divinely entrusted to the Supreme Pontiff, demands that he diligently pursue those things which promote the growth of the Catholic name and the benefit of the Christian people. Furthermore, when the Venerable Brother Bishop of Goyasensis in Brazil earnestly requested that a new diocese be erected for the greater good of souls, through the division of the diocese entrusted to him, and when the Apostolic Nuncio in the Republic of Brazil recommended such a request, We considered the offered prayers to be favorably received. Therefore, after consulting with Our Venerable Brothers, the Most Reverend Cardinals of the Sacred Congregation Consistorial, and exercising the power reserved to the Roman Pontiff and the Apostolic See in Apostolic letters sealed with lead, whose beginning is "To all the Churches of the world," given on the fifth day before the Kalends of May in the year of the Incarnation of Our Lord one thousand eight hundred and ninety-two, We freely decree the erection in Brazil of a new ecclesiastical circumscription, and, whenever it shall seem expedient in the Lord, We further decree, with the consent of those whose interests are involved, or who presume to have such interests, that the diocese of Goyasensis be divided into two parts, and that a new diocese be established from its northern part, in the following manner: The entire territory situated to the north of the diocese of Goyasensis, comprising the following fourteen parishes: B. M. V. Gratiarum in Porto Nacional, B. M. V. sine labe conceptae in Boa Vista de Tocantins, S. Petri in Pedro Affonso, B. M. V. do Canno, Spiritus Sancti do Peixe, S. Annae da Chapada, B. M. V. de Nativitade, S. Miguel e Almas, S. José do Duro, Sanctae Mariae de Taguatinga, B. M. V. da Conceicâo, S. Ioannis Baptistae della Palma, B. M. V. dos Remedios in Arrayas, and S. Antonii do Chapaeo. We, by the fullness of our apostolic authority, separate and detach this territory from the diocese of Goyasensis, and We perpetually erect it into a distinct diocese, declaring it to be established, and to be called Portus Nationalis.

[*Latin ed. p. 93*]

The acts of Pope Benedict XV, page 93: The new diocese of Portus Nationalis shall be bounded as follows: to the north, by the civil boundaries between the State of Goyaz and the States of Maranhao and Para; to the east, by the civil boundaries between the State of Goyaz and the States of Maranhao, Piauhy, and Bahia; to the west, by the civil boundaries between the State of Goyaz and the States of Para and Matto Grosso; and to the south, by the northern boundaries of the parishes commonly called S. Domingos, Flores, Nova Boma, Cavalcanti, and Amaro Leite, from which the new diocese shall be separated from the diocese of Goyaz, to which the aforementioned parishes belong. We establish the seat and the episcopal cathedral of the diocese of Portus Nationalis in the city commonly called Porto Nacional;

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the diocese itself takes its name from this place, and therefore we raise it to the rank and dignity of an episcopal city, with all the rights and privileges that other episcopal cities enjoy by common law; and we elevate the church existing there, dedicated to the Blessed Virgin Mary of Graces, to the status and dignity of a cathedral, under the same title and invocation, and with the same parochial status, with the care of souls to be exercised as before; and we grant to it and to the Bishops who will hold office there, for the time being, the honors, insignia, favors, graces, privileges, and rights with which other cathedrals of the Church in Latin America and their prelates are endowed and enjoy, whether by common law, or by legitimate custom, or by a burdensome or special indult. Furthermore, we assign the house that exists there, which we urge to be repaired as soon as possible, as the residence of the Bishop of Portus Nationalis. Regarding the buildings for the ecclesiastical curia, the diocesan seminary, and concerning the diocesan patrimony, we commend it with the greatest urgency to the generosity of the faithful and to the zeal and industry of the new Bishop, so that these things may be established in due order as soon as possible. We establish this diocese, thus erected, as a suffragan of the Metropolitan Church of Mariannensis, until otherwise provided, and we subject the Bishop and his successors in office to the metropolitan jurisdiction of the Archbishop of Mariannensis. Furthermore, the aforementioned Apostolic letter, dated the fifth day before the Kalends of May in the year of the Incarnation of the Lord one thousand eight hundred and ninety-two, contains provisions regarding the honors, graces, privileges, indults, favors, endowment, and the power, authority, attributions, and taxation of new bishops; also regarding the institution, governance, and administration of the Cathedral Chapter, or at least the College of Consultors, and the Seminary, and the election of a Capitular Vicar or Administrator in the event of a vacancy.

[*Latin ed. p. 94*]

94 Acta Apostolicae Sedis - Official Commentary. Concerning the rights and duties of the clergy and the faithful, the transmission of documents, and other matters of this nature, everything must be carefully observed in accordance with the sacred Canons, and especially the Council of Trent, with regard to the newly established diocese of Porto Nacional. Furthermore, so that the Ordinaries of this new diocese may be able to maintain the dignity of their office, provide for the support of the clergy, and meet the expenses of divine worship and other needs of the diocese, We perpetually assign and grant to the endowment and sustenance of the new episcopal see the revenues of the ecclesiastical court, the proceeds legally established by common law or legitimate custom, and other offerings of the faithful, for whose spiritual benefit this new diocese has been established. Since there exists in the City [Rome] the Pontifical College of Latin America, in which young men chosen as "heralds of the Gospel and guides of souls" are

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cultivated under the watchful eye of the Roman Pontiffs, We decree that, as with other dioceses of Latin America, according to what was decreed at the plenary council of Latin America held in Rome in the year one thousand eight hundred and ninety-nine, at least two young men should be sent from this newly established diocese of Porto Nacional, without interruption, to be maintained there, as soon as it can be done. To ensure the stability and sustenance of these clergy and the endowment of the Pontifical College of Latin America, We earnestly request that the Ordinary of the new diocese, with due care and diligence, contribute as many resources as are necessary so that at least two, or at least one, of these young men can be supported from their revenues, and that these revenues, as soon as they are received, be perpetually assigned to the Pontifical College of Latin America in the City [Rome]. What has been decreed by Us in these letters with apostolic authority, no human being may, at any time, infringe, contradict, or oppose in any way. If anyone, may God prevent it, should presume to attempt this, let him know that he will be subject to the penalties prescribed by the sacred canons against those who obstruct the exercise of ecclesiastical jurisdiction. To these matters, We entrust the execution to the Most Reverend Brother Joseph Aversa, Archbishop titular of Sardiana and Apostolic Nuncio in the territory of Brazil, and We grant him the necessary faculties for this undertaking, including the power to delegate another man of ecclesiastical standing, and to pronounce a definitive judgment on any difficulty or opposition that may arise, with the obligation to transmit to the Sacred Congregation Consistorial in Rome, within six months, a faithfully rendered, authentic copy for the absolute execution of this Our mandate. Finally, We decree these present letters to be valid and of perpetual force.

[*Latin ed. p. 95*]

The acts of Pope Benedict XV, number 95, declare that these [provisions] are valid against all oppositions, even those with a special and explicit mention, which are of the least importance. Given in Rome, at St. Peter's, in the year of Our Lord one thousand nine hundred and fifteen, on the twentieth day of the month of December, in the second year of Our Pontificate.

[Signature]

O. CARD. CAGIANO DE AZEVEDO S. B. E.

Chancellor.

ffi ' C. CARD. DE LAI S. C.

Consistorial Secretary.

Iulius Campori, Apostolic Prothonotary.

Raphael Virili, Apostolic Prothonotary.

[Reference]

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Beginning in the *Acta Apostolicae Sedis*, volume XIII, number 19.
M. RIGGI, from the archives.
G. A.

SERMON DELIVERED ON MARCH VI, DURING THE LENTEN PREACHINGS IN THE CITY.

To the Bishop, who, according to a praiseworthy custom, attends the first Lenten sermon in his cathedral, the sacred orator presents himself to ask for the blessing, and the Bishop imparts it with the words that the Church places upon his lips: "May the Lord be in your heart and on your lips, that you may worthily, competently, and fruitfully proclaim the Gospel."

It will not be given to Us to attend the sermons that you, O most beloved sons, will deliver in this venerable City during the upcoming Lent. But precisely for this reason, you have wished to present yourselves now to the Bishop of Rome, as if to ask for His blessing in advance; and We would vainly attempt to express all the satisfaction that We feel in agreeing to support your request. For not only are We pleased to give public testimony of our benevolence to you, who have been chosen or approved by Our Cardinal Vicar to preach in Rome, but We also desire that Our blessing may render fruitful the ministry that you are about to undertake for the benefit of the Roman people, who are bound to Us by special ties.

But what shall be the formula of Our blessing? No other than that used by the Bishop in blessing the Lenten preacher in his cathedral.

[*Latin ed. p. 96*]

98 Acta Apostolicae Sedis - Commentarium Officiale, and therefore We also wish to say, together with the Church, to each of you: "May the Lord be in your heart, that you may worthily, competently, and fruitfully proclaim His Gospel." It is easily understood that this form of blessing contains both an exhortation and a wish; but We wish to emphasize primarily the wish, hoping that the exhortation may be superfluous for you. Indeed, it begins by wishing that the Lord be in the heart of the priest who is destined to proclaim the Holy Gospel: "Dominus sit in corde tuo." If this blessing were not addressed to one who can boast of the public testimony of esteem received from his Superiors, through the delicate task of preaching the divine word to the people, in this first part of the blessing, one might discern an admonition to the preacher, that he must first clothe himself with the virtues of Jesus Christ before inculcating them to others. We see in it the wish that the priests entrusted with preaching in Roma during the coming Lent not only be, but also appear endowed with the virtue proper to their state, so that it may be said of each of them: "Sacerdos alter Christus." It can also be interpreted as a wish that the grace of the Lord may ever increase in the priests to whom this blessing is addressed, because it is not without reason

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that it is said that the Lord must be received "in the heart" of the priest: "Dominus sit in corde tuo." The word "heart" can be used to indicate the soul with its well-known three powers, as well as to express the principle of all human operations; in either case, it is evident that the wish is that the preacher should be entirely of God, so as to deserve the greeting of the Apostle of the Gentiles: "tu autem homo Dei." Indeed, if the Lord has room and dominion in all the powers of his soul, in accordance with the first interpretation of the wish: "Dominus sit in corde tuo," then the preacher's memory can only be filled with the benefits of God, his intellect cannot lose sight of the divine Law, and his will can aspire to nothing but to strengthen in himself, and to extend in others, the kingdom of the Lord; but if the memory, intellect, and will of a preacher are occupied only with God, who will not say that that preacher is entirely of God, homo Dei? If, however, the second interpretation is preferred, according to which the heart indicates the principle of all human operations, it is easy to understand that to the preacher it is said: "Dominus sit in corde tuo," because grace is as necessary to the life of the spirit as the heart is to the life of the body: when the heart ceases to beat, so too does the life of the man; likewise, if grace were to fail, the life of the soul would be in vain. From this, it appears that it is...

[*Latin ed. p. 97*]

The acts of Pope Benedict XV extend the meaning within your heart. 97 of the first part of the blessing: "Dominus sit." Some, perhaps wrongly, might observe that the blessing contained therein is fitting for all the faithful, because certainly the Bishop desires that the Lord dwell with His holy grace in the soul of all his faithful, or that the grace of God be the beginning of all their actions. But have you considered the phrase, "et in labiis tuis," which completes the first part of the blessing? After the wish to be "of God," the priest, blessed by the Bishop, should appear as "a man of God" in all his actions, in all his movements; but it is important to consider him in the concrete exercise of his office as a preacher, and here is the exhortation, here is the wish: "May the Lord also be on his lips: Dominus sit et in labiis tuis." It is unnecessary to explain that "God is on our lips" when we love to speak often of Him, when we zealously seek His glory, when we defend His rights, when we increase His adorers, especially when we instill the observance of the law that He has promulgated. Rather, it should be observed that the wish "Dominus sit... in labiis tuis" can have a double meaning, one positive and the other negative. Indeed, nothing is more natural than for the preacher to receive the wish not only to preach God, but also not to preach anyone other than God. For you, most beloved children, we believe it superfluous to exhort you not to preach anyone other than God. Surely you condemn those who preach themselves; extend your condemnation to those who bring non-strictly religious arguments to the pulpit, or who treat profane matters. Indeed, such a condemnation should even be extended

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to those preachers who do not reach the reprehensible excess of directly treating profane subjects, but nevertheless cannot refrain, in developing their theme, from some such open allusion to profane things, that it would impress the listeners more than the theme itself. Such an abuse would renew in the Church those unfortunate divisions that St. Paul lamented in Corinth, when he said that it had been reported to him the language of some of the early Christians: "I am with Paul, I with Apollos, I with Cephas, and I with Christ" (1 Corinthians, 1:12). Ah, it is not impossible, especially in these days, that someone might go to hear a sermon in order to discover to which political party the preacher belongs: alas! you must make sure that you do not appear to be with Paul, or with Apollos, or with Cephas, but only with Jesus Christ. In this way, most beloved, the word "Dominus sit... in labiis tuis" will not have been spoken in vain for you.

[*Latin ed. p. 98*]

98 Acta Apostolicae Sedis - Commentarium Officiale. But that the efficacy of this word may be made ever more evident, it is necessary to consider the purpose for which the blessing is imparted to the preacher. This purpose is declared by the second part of the formula used by the Bishop: *ut digne, competenter et fructuose annunties evangelium suum*. We have already stated that, through the phrase *et in labiis tuis*, the Bishop considers the priest not generically, but as one charged with the office of preacher; now we can add that, with the further words of the blessing, the Bishop considers the priest in the act of going forth to preach. For him, the Bishop has formulated the wish *Dominus sit in ore tuo et in labiis tuis*, and now declares the reason: "that you may duly proclaim the Gospel of God," *ut digne, competenter et fructuose annunties evangelium suum*. No one can escape the particular solicitude that the Church has in specifying the Gospel that must be proclaimed by the preacher to whom the Bishop imparts the blessing, because it does not simply say *annunties evangelium*, but specifies *evangelium suum*. No admonition can be more opportune to induce the preacher to make a good choice of topics; no criterion can be more reliable to make him understand whether he has fulfilled or neglected his duty. Is this truly the Word of God? he must ask himself when preparing the sermon; have I truly proclaimed the Word of God? he must also ask himself, when, after the sermon, he returns to the silence of his cell. The answer to these questions will be given to the preacher, not only by his own conscience, but also by the attentiveness with which the faithful have listened to his sermon, and even more so by the fruits of conversion that he has gathered. Pitiful would be that preacher who, during the sermon, did not see compunction but digressions, not tears but smiles, on the faces of his listeners, and, after the sermon, saw the listeners rushing to the door, without even reflecting for a moment on the things heard. And what shall we say of that preacher who, preferring the citation of profane

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authors, perhaps of some literary merit but of no religious or moral fame, had chosen them instead of the citations from Holy Scripture, which is the true "Word of God," or the comments of the Holy Fathers, which are authoritative interpreters of it? Ah! how ungrateful it should sound to him the echo of the word with which the Bishop had warned him "to proclaim the Gospel of God!" Unfortunately, we cannot say that we are speaking only hypothetically, because even in the past year we had to lament more than once that some preacher had forgotten to...

[*Latin ed. p. 99*]

The acts of Pope Benedict XV, page 99, speak of always and only uttering the word of God from the pulpit. But we hasten to add that we do not believe you, most beloved sons, who have been chosen by the competent authority to be preachers of Lent in this blessed city of Rome, are capable of such oversight. Furthermore, it would suffice to dispel all fear with the certainty that you have given particular attention to the characteristics, which are indicated by the very formula of blessing used by the Bishop, that are proper to the sacred preaching. Indeed, the Bishop is not content to wish that "the Lord be in the heart and on the lips of the preacher, so that he may proclaim the Gospel of God," but he explicitly declares the manner in which this should be done, adding, "so that he may proclaim it worthily, competently, and fruitfully: *ut digne, competenter et fructuose annunties evangelium suum*." We would like to speak in detail of each of the three characteristics of sacred preaching, signified by those three adverbs, *digne, competenter, et fructuose*, which the Bishop pronounces to indicate the manner in which the Holy Gospel must be proclaimed, because you know that adverbs characterize verbs. But no one ignores that of the three adverbs mentioned above, the most important is the last; indeed, the two former seem to be ordered to the third, since preaching cannot be fruitful unless it is done in a fitting manner and with due competence; and, conversely, the more worthy the manner, and the more the preacher appears to be authorized, the more fruitful the sacred preaching must be. Therefore, we shall refrain from mentioning that, in order to preach worthily, *ut digne... annunties evangelium suum*, it is necessary not only to treat subjects of true religious interest, as we have already said and repeated before, but it is also necessary to treat them with purity of language, with propriety of form, with clarity of exposition, and above all with lucidity of thought, without giving too much weight to the stirrings of the emotions, so that a fleeting enthusiasm, perhaps excited by the brilliance of the expression, does not take the place of serious reflection, the mother of good intentions. We shall also refrain from mentioning that the second adverb, "competently," *ut... competenter... annunties evangelium suum*, is intended to emphasize the sublimity of the office entrusted to the preacher. For we believe that at least you, most beloved sons, are aware that your

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"competence to preach" comes from God. You are all ambassadors sent to the people of Rome; the credentials of your embassy may have been signed by the representative of Jesus Christ, but from where do they draw all their strength, if not from being given in the name of Jesus Christ Himself? Now, if, when you are on the pulpit, you keep alive the memory that in that act...

[*Latin ed. p. 100*]

100 Acta Apostolicae Sedis ~ Commentarium Officiale: Concerning the representation of Jesus Christ in preaching, it is impossible that you should offer thoughts, pronounce words, or advance proposals, which must then be disavowed by the Supreme Pontiff who has made you his ambassadors to the people. Instead, we pay special attention to the last adverb, which declares the most important characteristic of sacred preaching: *ut... fructuose annunties evangelium suum*. And we do not wish to conceal from you, most beloved, that we only learned of the inclusion of this third adverb in the formula of blessing for preachers when we ourselves had to pronounce that formula, on the first Wednesday of Lent, when we were in Bologna, governing our unforgettable see. But let the confession of our prolonged ignorance be joined with the expression of the approval we felt at that time, when we saw appropriately recalled the principal aim of sacred preaching. To achieve such an aim, it will be necessary for the preacher to be, and to appear, primarily concerned with the glory of God and the salvation of souls. We will not repeat here that he must therefore speak of himself as little as possible, and that he must eliminate from all his discourse everything that his conscience does not assure him will benefit the spiritual growth of his listeners; but we do not wish to omit reminding you that, in order to make preaching fruitful, the sacred speaker must adapt his language to the intellectual conditions of his audience. A thesis of philosophy, even if proven with the most rigorous syllogisms, and a historical dissertation, even if supported by the most reliable documents, would not only be useless to an audience of mediocre culture, but might so displease the minds of the listeners as to render them incapable of drawing benefit from those very observations that, in other cases, would have been fruitful and produced many good results. And with regard to the more select audience, that is, those composed of people of outstanding intelligence and nourished by good studies, it will be useful to point out that the fruit to which the sacred speaker must aspire is not intellectual delight, not the pleasing of the imagination, not the satisfaction of the ears. That would be the language of those teachers of whom St. Paul said from his time: *Prurientes auribus, et avertentes a veritate, ad fabulas autem convertentur* (II Timothy IV, 3). Therefore, the fruit intended by the sacred speaker must always be, and in every case, the conversion of the sinner or the perfection of the just. This is what the Bishop intends when he says he blesses the preacher *ut... fructuose annunties Evangelium suum*. And we must add that this, and

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no other fruit, is what we aim for when we bless the Lenten preachers of Roma? We are dispensed from further explanation.

[*Latin ed. p. 101*]

From the acts of Pope Benedict XV, page 101: the presence of the urban parish priests, who are the customary preachers, that is to say, "the annual preachers" in their churches, and they know that We desire that nothing other than Jesus Christ be preached to the people: "We preach Jesus Christ, and Him crucified." Therefore, We raise Our hands over the parish priests of Rome, over each and every one of the most beloved sons, who are about to undertake the Lenten preaching in this venerable City, and to each of them We say with the words of the Church: "May the Lord be in your heart and on your lips, that you may worthily, competently, and fruitfully announce His Gospel." May this blessing be made effective by the power of that God who created us, by the wisdom of that God who redeemed us, by the love of that God who, with His grace, has sanctified us and desires us all to be saved. In the name of the Father, and of the Son, and of the Holy Spirit. Amen.

[*Latin ed. p. 102*]

102 Acta Apostolicae Sedis - Official Commentary ACTA 88. SESSION OF THE SACRED CONGREGATIONS CONSISTORY I DECREE CONCERNING THE DIVISION OF TERRITORY The Archdiocese of Benevento, renowned for its many titles, and distinguished by the size of its population and the extent of its territory, so that it stretches from the Tyrrhenian Sea to the Adriatic Sea in Italy; and besides its main territorial body, it includes several other places, separated from it and situated among different dioceses. This has resulted in the situation that the Sacred Ministers of Benevento are unable to visit with sufficient frequency the faithful of these same places, nor to provide them with salutary spiritual guidance; and the faithful, especially the poor, who cannot undertake long journeys due to heavy expenses, are prevented from approaching their own Pastor and Bishop. These inconveniences, although present in every age, are now, in our times, when the people desire and demand that everything be done more quickly, and that their wishes and requests be satisfied more rapidly, affecting the good Pastor all the more. In order to remove these and other inconveniences, and to better provide for the good of the faithful, the Most Holy Pope Benedict XV decided and decreed that the places most distant from the See of Benevento and separated from its boundaries should be separated and united to the nearest diocese. Therefore, with certain knowledge and mature deliberation, after consulting with the Fathers of this Holy Congregation and exercising the fullness of his apostolic power, and furthermore, supplementing this with whatever is necessary, with the consent of those who are concerned or are presumed to be concerned, His

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Holiness divides and separates three of the following parishes, together with the territory of each town, that is, Casalnuovo Monterotaro, Lesina, and Poggio Imperiale, from the territory of the Archdiocese of Benevento, and simultaneously,

[*Latin ed. p. 103*]

The Sacred Congregation Consistorial has, from among the aforementioned parishes, namely Casalnuovo Monterotaro, which borders the diocese of Lucera, and also the two parishes of Lesina and Poggio Imperiale, which belong to the diocese of St. Severus, permanently united and aggregated them, with the understanding that, if anything pertains, the diocese of Lucera shall retain jurisdiction over the parish of Lesina.

In order that what has been established in this decree may be carried out, the Most Holy Lord has appointed the Reverend Father Don Ianuario Cosenza, Archbishop of Capua, and has granted him the necessary and appropriate powers, including the power to delegate, in order to achieve the aforementioned purpose, and has ordered him to send, within three months, an authentic copy of the completed execution to this Sacred Congregation. Finally, concerning the matter at hand, a consistorial decree has been issued, which shall be valid as if Apostolic Letters had been promulgated, notwithstanding any contrary provisions, even those deserving of special mention or derogation.

Given at Rome, from the Secretariat of the same Sacred Congregation, on the 23rd of February, 1916.

C. CARD. DE L A I, Bishop of Sabina, Secretary.

L. ffi S. Ioannes Bapt. Rosa, Substitute.

II. ERECTION OF A NEW DIOCESE IN BRASILIA

The Most Holy Pope Benedict XV, by decree of this Sacred Consistorial Congregation of the 20th of December of the past year, having favorably received the petitions of the Bishop, divided the diocese of Goyas into two parts; thus, while the same diocese of Goyas is restricted to the southern region, a new diocese has been established in the northern region, named Portus Nationalis, commonly known as "Porto Nacional."

This diocese comprises the following fourteen parishes:

* B. M. V. Gratiarum in Porto Nacional;
* B. M. V. sine labe conceptae in Boa Vista de Tocatins;
* S. Petri in Pedro Affonso;
* B. M. V. do Canno;
* Spiritus Sancti do Peixe;
* S. Annae de Chapada;
* B. M. V. de Natividade;

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* S. Miguel e Aimas;
* S. José do Duro;
* S. Mariae de Taguatinga;
* B. M. V. da Conceição;
* S. Ioannis Baptistae della Palma;
* B. M. V. dos Remedios in Arrayas; and
* S. Antonii de Chapéu.

The same Most Holy Pope has established this diocese, until otherwise provided, as a suffragan of the Archdiocese of Mariana.

[*Latin ed. p. 104*]

Acts of the Apostolic See - Official Commentary 104 III PROVISIONS REGARDING CHURCHES. By the decrees of the Sacred Congregation of the Consistory, the Most Holy Pope Benedict XV, in the following manner, has provided for the churches, namely: March 13, 1916. — He appointed the Reverend Father Louis Ernest Dubois, formerly the Archbishop of Bourges, as the Prefect of the Metropolitan Church of Rouen. March 14. — He appointed the Reverend Peter Segura Saenz, a doctoral canon of the Metropolitan Church of Valladolid, as the titular bishop of Apollonia, and appointed him as an auxiliary to the Most Reverend and Right Reverend Lord Cardinal Cos and Macho, Archbishop of Valladolid. March 27. — He appointed the Reverend Father Leónidas Medina, formerly the Bishop of Pasto, as the titular bishop of Chamachén, and appointed him as an auxiliary to the Reverend Father Bernard Herrera Restrepo, Archbishop of Bogotá in Colombia. SACRED CONGREGATION FOR THE PROPAGATION OF THE FAITH CONCERNING MATTERS OF THE ORIENTAL RITE. DOUBTS REGARDING THE APOSTOLIC CONSTITUTION "INCRUENTUM" WITH REGARD TO THE ORIENTALS. At the plenary meeting of the Sacred Congregation for the Propagation of the Faith concerning matters of the Oriental Rite, held on March 13, 1916, the proposal to extend to the Orientals the privilege of celebrating three Masses on the day of the Commemoration of the Faithful Departed, a provision of the Apostolic Constitution *Incruentum* of the Holy Father Benedict XV, was examined, with the following doubts: I. Whether the Benedictine privilege of celebrating three Masses on the day of the solemn Commemoration of the deceased extends to the Orientals. And, if so, to what extent: II. Whether it is fitting to extend to the Orientals the privilege of which mention is made in the first doubt.

[*Latin ed. p. 105*]

The Most Holy Congregation of the Propagation of the Faith, 105. And concerning the following: III. On what day may the priests of the various Eastern rites enjoy the same privilege? And the Most Eminent Cardinals, af-

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ter mature examination, responded: To I. Negatively. To II. As proposed, it does not seem expedient. To III. It is provided for. The Most Holy Father, in the audience granted to the undersigned Secretary of the aforementioned Most Holy Congregation, on the following 22nd of March, deigned to approve the aforementioned resolutions. Jerome Rolleri, Secretary.

II. DECREE CONCERNING SPIRITUAL ASSISTANCE TO THE FAITHFUL OF THE GREEK-RUTHENIAN RITE IN SOUTHERN AMERICA, IN REGIONS OF IMMIGRANTS. Since the number of faithful of the Greek-Ruthenian rite has daily increased in the regions of Southern America, it has been deemed fitting to collect together, under certain circumstances, those matters which, in these latter times, pertain to their spiritual administration, by this Most Holy Congregation, established for the propagation of the Christian Faith among the faithful of the Eastern rites, and to decree what may be valid both for places where Greek-Ruthenian missions, with their own priests and churches, already exist, and also for places where the faithful of the Greek-Ruthenian rite live mixed with the faithful of the Latin rite.

1. All faithful of the Greek-Ruthenian rite, as long as they reside in the regions of Southern America, shall depend solely on the jurisdiction of the local Bishop.

2. Every Greek-Ruthenian priest coming from Europe and residing in the regions of Southern America for the spiritual care of the Greek-Ruthenian faithful, shall be entirely subject to the jurisdiction of the local Bishop; nor shall the Bishop of the same origin be able to exercise any jurisdiction over him in any way. He may not return to his homeland or be recalled without the express written permission of the local Ordinary.

3. The Bishops of the regions of Southern America, if they require Greek-Ruthenian priests for the assistance of the faithful of the same rite residing in their diocese, shall request them from the Most Holy Congregation of the Propagation of the Faith, for the affairs of the Eastern Rite.

ACTA, vol. VIII, n. 4. - 3-4-916. 8.

[*Latin ed. p. 106*]

Acta Apostolicae Sedis - Official Commentary 4. Those Greek-Ruthenian priests who, without being called by the local Bishop, nor sent by the Holy Congregation, have traveled through the regions of Southern America, shall not be granted by the local Bishop any faculties whatsoever, either for celebrating the sacred rites, or for administering the sacraments, or for performing any ecclesiastical duties. 5. The faithful of the Greek-Ruthenian rite are obligated to frequent and support their own churches erected in the places where they reside; and to diligently observe the prescriptions of their own rite. However, in places where there is no church, nor a priest of their own rite, and where, due to distance, they cannot attend their own

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church without serious inconvenience, they are obligated to conform to the Latin rite, both with regard to the precept of hearing Mass, and with regard to the reception of the sacraments; but let it not follow from this, that, even because of the frequent attendance of the Latin rite by the Greek-Ruthenians, a change of rite is induced. 6. The transition from the Greek-Ruthenian rite to the Latin rite may not be granted to Greek-Ruthenians who have established a true and stable residence in the regions of Southern America, except by the Sacred Congregation for the Propagation of the Faith, concerning Eastern Rites, for grave and just reasons, which must be known to the aforementioned Sacred Congregation. 7. If, however, it should happen that these individuals return to their homeland, then, even if, by a papal decree, they have adopted the Latin rite, it will be permissible for them, upon petition to the Apostolic See, to return to their former Ruthenian rite. 8. It is not permitted to priests of the Latin rite, under penalties decreed or to be decreed by the Apostolic See, to induce any Greek-Ruthenian to adopt the Latin rite. 9. Even if a priest of the Latin rite is present, the faithful of the Latin rite may, with the approval of the local Ordinary, confess their sins to a Greek-Ruthenian priest, and validly and licitly obtain the benefit of sacramental absolution. Likewise, the faithful of the Greek-Ruthenian rite may confess their sins to a Latin priest approved by their Bishop. However, Greek-Ruthenian priests shall not be able to absolve the faithful, whether of the Greek-Ruthenian rite or of the Latin rite, from censures and from cases reserved to the Ordinary, without the permission of the same. 10. To all the faithful of whatever rite, the faculty is given to receive the Sacrament of the Eucharist, consecrated according to any rite, for the sake of piety; and, moreover, where necessity arises, and no priest of a different rite is present, it will be permissible for a Greek-Ruthenian priest to administer the Eucharist consecrated in the unleavened bread; and, conversely, for a Latin priest to administer in the leavened bread; but each shall observe his own rite in administering. 11. Each of the faithful shall fulfill the precept of Paschal Communion by receiving it according to his own rite, and indeed from his own parish priest.

[*Latin ed. p. 107*]

£ The Congregation of the Propagation of the Faith, 107, 12. The Holy Eucharist must be administered to the dying according to the proper rites of their own parish; but, in cases of urgent necessity, it is permissible to receive it from any priest, who, however, will administer it according to his own rite. 13. The celebration of funerals and the collection of offerings in families of mixed rites belong to the parish priest of that rite to which the deceased belonged. 14. To avoid serious inconveniences that might arise for the Greco-Ruthenians, they are granted the faculty of observing feast days and fasts according to the custom of the places in which they live. However,

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on Sundays and feast days that happen to fall on the same day in both rites, the Greco-Ruthenians are obliged to attend the sacred Liturgy in the church of their own rite, if one exists in the place; moreover, a change of rite should never be introduced, even by long-standing custom. 15. Marriages between Catholics of the Greco-Ruthenian rite and those of the Latin rite are not prohibited; but, to avoid inconveniences that often arise from the difference of rites in families, the wife, during the marriage, may follow the rite of her husband, without any change of rite being introduced for their children. 16. After the marriage is dissolved, the woman may resume her own rite of origin. 17. Marriages, both between the faithful of the Greco-Ruthenian rite and between the faithful of mixed rites, must not be contracted lightly; and therefore, in the rite of the woman, they must be blessed by the parish priest of the woman. 18. Children born in regions of South America from parents of different rites are to be baptized in the rite of the father, since both sons and daughters must completely follow the rite of the father. 19. Baptism received in a foreign rite due to a grave necessity, namely, when the child was near death, in a place where, at the time of birth, the proper parish priest of the father was not present, does not entail a change of rite; and the priest who baptized must give a certificate of baptism to the proper parish priest. 20. Children belong to the jurisdiction of that parish priest whose rite is that of their father, except for those born of an illegitimate union, who follow the rite of the mother. These matters, having been presented to the Most Reverend Secretary of this Holy Congregation, were heard on March 22nd of the year, and were approved and confirmed by Our Most Holy Father Benedict, of Divine Providence, Pope, and He ordered that this Decree be issued, with all contrary things notwithstanding, and with all things previously established on this matter by His predecessors abolished, to be valid for ten years. Given at Rome, from the offices of this Holy Congregation, on March 27th of the year 1916. DOMINICUS CARD. SERAFINI, Prefect. L. B. S. Hieronymus Rolleri, Secretary.

[*Latin ed. p. 108*]

Acts of the Apostolic See - Official Commentary 108. ACTS OF THE TRIBUNALS. SACRED PENITENTIARY APOTOLICAL DECREE CONCERNING THE OBLIGATION OF CLERICS, ESTABLISHED IN SACRED OFFICES, TO RECITING THE DIVINE OFFICE, WHO ARE COMPELLED BY CIVIL LAW TO PARTICIPATE IN WAR.

Since several doubts and questions have been raised concerning the decree issued by the Sacred Penitentiary on March 15, 1912, and presented to this Sacred Tribunal, in order to dispel the deplorable and entirely foreign interpretation to the mind of the Holy See, by which the aforementioned decree is extended to all clerics, established in sacred offices, who are in the present war, in any way, engaged among the soldiers, the Sacred Penitentiary, lest the benevolence of the Holy See be turned into a detriment to

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the spirit of the Church, deems it its duty, with the approval of His Most Holy Father Benedict XV, to issue the following authentic decree:

1. "Clerics who, although established in sacred offices, are nevertheless compelled to participate in the war, are excused from the obligation of reciting the Divine Office only when they are actually engaged in battle or in the line and place of combat; otherwise, they are bound to recite the Divine Office in the free hours as best they can; and in the case of serious inconvenience to themselves or others, they may and should (after having heard, if possible, their own confessor) do so according to the general norms handed down by the Theologians."

Given in Rome, in the Sacred Penitentiary, on March 17, 1916.

WILLIAM CARDINAL VAN ROSSUM, Penitentiary Major.

L. © S. I. PALICA, Secretary.

1. The decree reads as follows: "Whether is a cleric, established in sacred offices, exempt from the obligation of the Divine Office, whom a military conscription or, as they say, mobilization has assigned to the function of a soldier, either active or ministering to wounded comrades? To this, does Holiness deign to exempt the aforementioned clerics during the war?"

Answer: To the first part: Affirmatively, during the war and its immediate preparation. To the second part: Provided for in the first.

[*Latin ed. p. 109*]

109 The Sacred Rota of ROMA, the Rota of the Holy See. Regarding the Nullity of Marriage (SURCOUF-DE SERRES). Under the blessed reign of Benedict XV, in the first year of his pontificate, on the 31st of July, 1915, the Most Reverend Fathers, Doctors Seraphinus Many, Ponens, Ioannes Prior, and Raphael Ghimenti, Auditors of Turno, in the case of the Nullity of Marriage between German Surcouf, an actress, represented by her legitimate procurator, the lawyer Albert Colomb, to whom, during the course of the litigation, the lawyer Angelus d'Alessandri was substituted, on one side, and Emmanuel de Serres, the defendant, who declared that he submitted to the judgment of the Holy Rota, on the other side, in the appeal against the sentence of the Reverend Tribunal of Niciensis, concerning the defense of the Bond of Niciensis, with the intervention and argumentation of the Defender of the Bond ex officio, they rendered the following definitive sentence. German Surcouf, adopted according to the laws of Gallia by Madame Duplessy, and Emmanuel de Serres, of Nicaeae, in Gallia, entered into marriage according to the usual rites on the 2nd of June, 1909. However, a happy outcome did not follow from these nuptials. For the common life, scarcely a year and a half having elapsed, was abruptly ended, and the separation was pronounced by a secular judge in the month of January, 1911. Therefore, German, a religious and pious woman, wished to regain her freedom in the forum of the Church, and presented a suppliant petition

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to the Tribunal of Niciensis on the 6th of October, 1913, requesting that her marriage with Emmanuel be declared null, both on the grounds of lack of consent on the part of the husband, and on the grounds of coercion and fear on the part of the wife. On the 22nd of May, 1914, a sentence was issued, in which, the first ground of nullity being rejected, the second was admitted, and the marriage was declared null on the grounds of coercion and fear on the part of the wife. Therefore, concerning the second part of the sentence, the Defender of the Bond of Niciensis appealed to the Holy See, and thus, in this sacred tribunal, the following question was raised: Does the nullity of the marriage exist in this case, according to the law? According to the definition derived from Roman law (L. "Ait praetor," 1, D. "Quod metus causa," IV, 2) and accepted by all, fear is: the trembling of the mind caused by an imminent or future danger.

[*Latin ed. p. 110*]

110 % Acta Apostolicae Sedis - Commentary

Fear is grave if the danger or evil feared is grave, whether it is grave in itself or absolutely, or whether it is grave only in relation to the person who fears, e.g., to a woman, as Sánchez rightly explains in *De matrimonio*, book 4, chapter 3, paragraphs 2-4. If the danger or evil is not grave, either absolutely or relatively, then the fear is light. Furthermore, it is well known that grave fear alone (with other required conditions present, namely that it be unjust and imposed in order to extort consent for marriage) can invalidate a marriage. All legal authorities that deal with the invalidation of marriage due to fear expressly state or imply that the fear must be grave or must fall upon a constant man, e.g., *Cum locum*, 14; *Veniens*, ibid.; *Consultationi*, 28; *De sponsalibus*, which should be added to *Cum dilectus*, 6; *De his quae vi, etc.* Furthermore, in ecclesiastical law, the question of reverential fear is often raised, especially in the matter of marriage, and it is asked whether it invalidates marriage; to which question the answer is: Reverential fear, by itself, does not invalidate marriage. Reverential fear can be understood in two ways. In the first sense, it refers to the reverence and respect with which a subordinate person is affected towards a superior, e.g., a son towards his parents, so that, because of this reverence, the subordinate person does more than he would otherwise, lest he displease the superior, and he obeys his commands, warnings, and advice, because he does not dare to contradict him. In this sense, reverential fear does not invalidate marriage; indeed, it is not even properly called fear, because fear is not understood without the apprehension of some danger or evil. In the second sense, reverential fear refers, in addition to the aforementioned reverence and respect, also to the fear of offending the superior; which offense is certainly an evil for the subordinate. However, even in this second sense, reverential fear, by itself, does not invalidate marriage; for the aforementioned offense of the

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superior, although it is an evil, is not considered in law to be a grave evil, nor is it so for a girl. In Roman law, a marriage entered into solely by order or coercion of the father, without threats or other similar circumstances, is not considered invalid, L. 22, D., *de ritu nuptiarum*, XXIII, 2: "If the father compels (his son) to take a wife, whom he would not take if he were of his own free will, he nevertheless contracts marriage; which is not contracted among unwilling persons; it seems he wishes this." Similarly, in canon law, a religious profession made solely by order of the father is not considered invalid: *Insinuante*, 7, concerning clerics or those making vows. Indeed, since, by hypothesis, there are no threats, beatings, or serious quarrels, it is a sign that the aforementioned offense of the superior is not an evil so grave, even for a girl. Therefore, simple reverential fear does not invalidate marriage. But it is different when, in addition to simple fear of offending the superior, there are circumstances that make even a man or woman...

[*Latin ed. p. 111*]

The Roman Rota has been gravely disturbed in its deliberations in the third instance; among these matters, there were threats, serious quarrels, beatings, persistent and prolonged entreaties, or even signs of grave and lasting indignation on the part of the superior: the weight of all these circumstances remains for the judge's assessment. In these cases, reverential fear, no longer simple but mixed or qualified, truly becomes grave and dissolves the marriage. And so, concerning all the aforementioned matters, the most common opinion of the doctors is that it is wrong to deviate from it. Thus, Sánchez, on marriage, book IV, section 6, number 7 and following, who cites numerous authors in support of this opinion; Pichler, in the title on betrothals, number 108, at the end; Barbosa, Decisive Vows, volume 77, numbers 73 and following; Lessius, on justice and law, book 2, chapter 17, number 35; Reiftenstuel, in the title on those things done by force, etc., numbers 93-101, and in the title on Regular Canons, number 165, in which he discusses religious profession: for, according to all the doctors, marriage and religious profession are equated in this respect (Cf. Barbosa, Decisive Vows, volume 37, number 7). These doctors are also agreed upon by more recent ones, e.g., d'Annibale, Summula, volume I, section 138, note 16; Vecchiotti, Institutes of Canon Law, volume III, on the Sacraments, section 99 at the end; Rosset, on marriage, volume II, numbers 1278-1285; Santi, in the title on betrothals, number 144; Wernz, Matrimonial Law, number 264, page 392, edition of 1904; Gasparri, on marriage, number 942, volume II, page 53, edition of 1904. This has also been the jurisprudence of the Holy Congregation of Councils, which has never admitted simple reverential fear as dissolving marriage, but rather reverential fear mixed, in the sense explained above (see the reasons indicated in Wernz, loc. cit.). And this is also the jurisprudence of the Holy Rota, which is accustomed to admit mixed reverential fear in order to dissolve marriage, as it did in the case

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of Parisien - Nullities of Marriage, on February 26, 1910; in the other case of Parisien - Nullities of Marriage, on March 13, 1911, etc. As for the facts, in order to better understand the difficulty in the present case, it should be known that the German, Surcouf, still in her tender years, was entrusted by her mother, who was dying, to a certain friend, namely, the lady Duplessy, a woman equally religious and wealthy, who treated her, from that time on, as a daughter; German's father, Mr. Surcouf, was still alive, and he was very pleased to see his own daughter placed in such an honorable family. About her adoptive parents, German says in her supplication to the Nice Tribunal: "Orpheline très jeune, j'ai été confiée par ma mère mourante à des amis, Monsieur et Mme Duplessy, qui, bien qu'étrangers, sont devenus pour moi les père et mère les plus dévoués, au point de me donner leur nom et leur fortune en me constituant civilement leur fille adoptive. Arrivée à l'âge de me marier, je comprenais tout ce qu'ils étaient pour moi, je me..."

[*Latin ed. p. 112*]

112 Acta Apostolicae Sedis - Commentarium Officiale "she reminded them of their affection, their sacrifices, and the considerable debt that "I had contracted towards them." Therefore, when Germana was approaching her twenty-second year, her adoptive mother proposed a young man, Emmanuel de Serres, for her marriage. This marriage was very pleasing to Madame Duplessy, both because she had heard many good things about this young man from friends, and because he bore a distinguished name, and especially because, since he was not engaged in military service, nor in any other profession that would require him to travel far, Madame Duplessy hoped that her adopted daughter would remain at home with her husband, and would provide care for her adoptive mother in her old age. In the meantime, Madame Duplessy and her husband bestowed numerous benefits upon Germana, and formally adopted her, according to French law, so that Germana Surcouf could add the name Duplessy to her own name, and acquired all the rights of a legitimate child in the eyes of the law (French Civil Code, articles 347, 350); this adoption, as Madame Duplessy stated in her testimony, took place two months before the marriage. However, the proposed marriage was very displeasing to Germana; as she herself states in the aforementioned deposition: "Mr. de Serres was, from the very day he was presented to me, extremely unpleasant. He wanted to dance with me; I abandoned him a few moments later, praying that my companions would entertain him, because I found him utterly disagreeable. A few days later, Mr. de Serres asked for my hand in marriage from Madame Duplessy. My adoptive mother learned from me that I did not love the young man, and that a marriage with him was not to be desired. She insisted. A friend, in whom she had complete confidence, came almost every day to urge me. Mr. de Serres had, in the meantime, made false confidences to her, which moved her, and led her to believe that by giving her adopted daughter to

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this young man, she would have a family who would be a blessing in her old age. Information obtained about the family served to further convince her; the marriage was plainly proposed to me. If Madame Duplessy had read my soul, she would not have done so. If she had been my mother, I would have said no, relentlessly. But in this circumstance, she was more than a mother, giving herself to my advantage what nature had not given her, and showering me with an affection that was unparalleled. I did not have the strength to resist her." Therefore, Germana entered into marriage with the aforementioned young man, because she dared not resist the insistence of her adoptive mother, lest she offend her, after having received so many benefits from her. The question arises, therefore, whether this fear, from which Germana contracted the marriage with Emmanuel, was sufficient to nullify this marriage.

[*Latin ed. p. 113*]

113 The Roman Rota, after examining the proceedings of the case, judged that the answer should be in the negative. Indeed, as has already been indicated, German agreed to the marriage because she feared displeasing her adoptive mother, lest she offend her: this is what she herself states in her testimony, on pages 4 and 5: "I said 'yes' only so as not to upset my adoptive mother; I did not want to 'do as everyone else in such circumstances, but only' to avoid displeasing my adoptive mother." Therefore, German experienced a reverential fear; but this fear was a simple one, not mixed with or qualified by other elements; for, as is evident from the proceedings, the adoptive mother of German never used threats, nor beatings, nor serious quarrels, nor persistent and insistent pleas; and German makes not the slightest mention of any of these, nor does any witness. Nor should it be said that German was timid, gentle, and docile, and, on the other hand, that in the matter at hand, Madame Duplessy was tenacious in her purpose, and that German was not so much presented with the marriage to Emmanuel as imposed upon, and that indeed, firmly and constantly. - However, German's timidity should not be given too much weight; on this matter, the witness Duplessy, German's adoptive father, says: "Rather timid, without being so; she did not have the energy for a struggle. She had confidence in us who had raised her in the principles of respect and obedience; she did not question our orders, rebelling sometimes, as other children do, when certain things were not granted to her that we could not, in her moral interest, grant her." Indeed, Emmanuel de Serres says, on page 10: "(German) is quite authoritative, but she is also easily influenced by her adoptive parents." Therefore, she seemed timid rather than truly was so; moreover, at the time of the marriage, she was twenty-one years old, not a girl anymore. As for her adoptive mother, with regard to the marriage in question, she was indeed tenacious in her purpose, as is evident from the testimonies of the witnesses; nevertheless, the reasons

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that motivated her were not absolutely urgent; the most important of these, as has been said, was that she hoped that her adopted daughter, married to Emmanuel, would remain at home with her husband, and provide her with care in her old age; but since Madame Duplessy was very wealthy, she could undoubtedly have provided for herself in her old age in other ways. Therefore, the fear that affected German did not stem from a simple reverential fear. Furthermore, the witnesses say that, with regard to this marriage, German was not forced, but only urged. Thus, Joseph de Serres, a brother of the convent, says, on page 6: "My impression is that she gave her full consent and that she consented willingly, despite the pressure she may have experienced. I attended the marriage as a witness for my brother." Furthermore, E-

[*Latin ed. p. 114*]

114 Acta Apostolicae Sedis - Commentarium Officiale Manuel de Serres ad 12: "Without exerting pressure, she was advised to have this 'marriage,' and she must have been influenced." Quod ipsa Germana confirmat in suo interrogatorio ad 2: "No, I did not give a full and free 'consent' to this marriage, not that I was forced, but 'influenced.'" Therefore, with regard to the marriage, Germana was not coerced, but only influenced. Furthermore, in fine, she acquiesced to the will of her adoptive mother, although not without some remaining repugnance. This is demonstrated by several facts from the records. Before the marriage, Germana never declared to the groom that she would marry him only under duress; this is stated by the man himself; to this question 4: "Did she declare to you that she was reluctant to marry you? Did she say that she was doing so against her will?" he replied: "No, never." And this is confessed by Germana herself in her supplementary interrogation, at 9; to this question: "Did you let Mr. de Serres 'understand that you were not marrying him willingly, and that you were yielding to the desire of 'your parents?'" she replied: "No, I never let him understand that." Moreover, as experience teaches, girls who are truly forced into marriage often declare to the groom, before the marriage, that they hate him, in order at least in this way to attempt to break off the betrothal. Also, before the marriage, Germana sought no one who could have freed her from the influence of her adoptive mother; for she could have revealed her repugnance to the marriage to her adoptive father, or to her natural father, or even to some relatives of the groom, and could have implored their help against the influence of her adoptive mother; but she did not do so: she confided her innermost feelings to one of her maids, Julietta Brocard; which was, as it is clear, completely ineffective. Furthermore, girls who are truly forced into marriage usually turn to relatives and friends, so that they may intervene on their behalf before the feared marriage takes place. Moreover, after the marriage, when the marriage with Emmanuel had already been proposed to her, she freely

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accepted the adoption; for in French law (Code civil, art. 353), in order that an adoption may be valid, the consent of the person to be adopted is required, and therefore, an adoption cannot take place unless the person to be adopted has completed the age of majority (ibid., art. 346). Therefore, Germana accepted the adoption; moreover, this is a sign that she did not so strongly object to the marriage with Emmanuel; for if she had truly objected to this marriage, she would not have so readily accepted the adoption, since she remained free to reject this marriage; which is all the more to be said, because the principal reason why Duplessy adopted Germana was because she had contracted a marriage that pleased her adoptive parents; as she herself says.

[*Latin ed. p. 115*]

The Roman Rota, numbers 115 and Duplessy; concerning which it was inquired: "Did Miss Surcouf's adherence to this marriage not obligate you to adopt her sooner than you had intended?" She replied: "We were determined to adopt her on the condition that the marriage she would make would be suitable to us, and this marriage has fulfilled our intention, since it appears to us to be suitable." Nothing unusual was noted, either during the marriage itself, or outside of it, in the proceedings in Germany, but she appeared happy, as many witnesses testify. Maria de Lambordette stated, at 5: "I attended the religious marriage, but I noticed nothing extraordinary." Furthermore, Joseph Dumont, at 10: "I noticed nothing extraordinary in the celebration of her marriage." Indeed, Joseph de Serres, in response to the inquiry 7: "During the celebration of the marriage, did her demeanor have anything abnormal about it?" replied: "No, absolutely nothing; and from appearances, one could believe that she was quite content." Similar things are said by Emmanuel de Serres; in response to the inquiry 3: "What sentiments did Miss Germaine Surcouf express to you before the marriage?" he replied: "She seemed very happy that the marriage would take place"; and in response to the inquiry 7: "During the celebration of the marriage, did her demeanor have anything abnormal about it?" he replied: "But no." And even the actress herself, Germaine, admits this: in response to the inquiry: "Did the attitudes (namely, those of Germaine and Emmanuel) present anything abnormal?" she replied: "Was there nothing outwardly to be remarked?" Furthermore, Germaine adds that she acquiesced to the marriage: in the supplementary interrogation, in response to the inquiry 10: "When, in the church, you affirmed your consent, what did that word mean to you?" she replied: "I thought that I must fulfill all my duties as a wife, and try to make my happiness; that by accepting the burdens, I must accept the consequences"; and in the prior interrogation, in response to the inquiry 13: "Have you not, through conjugal relations freely consented to, at least afterward ratified your consent?" she replied: "I considered it my duty to submit to his requests (namely, those of her husband) and to lessen

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my unhappiness. I had the hope that my union might perhaps become acceptable. Moreover, my fear of being unhappy was only an impression, and I hoped that by being gentle, I might win him over." All of this is confirmed by the husband: in response to the inquiry 8: "What were her sentiments towards you after the marriage? Was her manner of acting that of a person who truly believed herself to be married?" he replied: "Yes, after...

[*Latin ed. p. 116*]

116 Acta Apostolicae Sedis - Commentarium Officiale "le mariage, et pendant un certain temps, elle a eu l'air de se conduire comme une personne vraiment mariée". Tandem, uti apparet passim in actis, propria ratio quae Germanam ad acceptandum matrimonium movit, est gratitudo, licet exaggerata, qua erga parentes suos adoptivos, propter recepta ab eis beneficia, afficiebatur, et qua factum est ut eis matrimonium proponentibus displicere noluerit. Testis Castelli, ad quaesitum 11: "Croyez-vous que "Madame et Mr Duplessy l'aient contrainte à ce mariage et comment?", respondit: "Par le sentiment et l'exagération telle la reconnaissance due". Testis Coutan, ad 10, ait: "J'estime que la jeune fille a accepté ce "mariage par suite d'une contrainte morale provenant des meilleurs sentiments d'affection et de reconnaissance, surtout eu égard à cette circonstance, que le fait considérable de la procédure d'adoption coïncidait avec le projet de mariage". Supra animadvertimus Germanam huic proposito adoptionis, quod cum proposito matrimonii concurrebat, libere consensisse. Et haec confirmant dnus et dna Duplessy; prior ait, ad 10: "Je puis affirmer que si nous avions été son père et mère, elle "aurait peut-être refusé ce parti, et même si nous n'avions pas fait "pour elle ce que nous avons fait, elle aurait refusé". Altera, ad 10, pariter dicit: "Je crois qu'elle n'aurait pas fait ce mariage, si j'avais "été sa mère, et qu'elle n'y a consenti que par reconnaissance pour "ce que j'avais fait pour elle". Sed hoc clarius adhuc fatetur Germana; in suo enim interrogatorio suppletivo, ad 5, ait: "On m'a bien dit "formellement qu'ils ne m'auraient pas adoptée si je ne faisais pas un "mariage à leur convenance; mais c'est uniquement dans la crainte de "manquer à la reconnaissance, dette que j'avais contractée à leur égard "pour tout ce qu'ils avaient fait pour moi"; et ad hoc quaesitum: "N'aviez-vous pas assez de confiance dans l'affection de vos parents "adoptifs, pour croire que votre refus raisonnable ne la briserait pas? "Vous avait-on même dit ou laissé entendre que, si vous refusiez, on "romprait?", respondit: "Non, mais une simple obligation morale que "je tenais à remplir". Clarum est ergo Germanam matrimonio consensisse propter gratitudinem, nimiam quidem et male intellectam, qua mota parentibus adoptivis matrimonium proponentibus displicere noluit. Quae animi dispositio longissime distat amete; metus enim qui dirimit matrimonium debet esse ab extrinseco; porro in Germana gratitudo et eius

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"exaggeratio" erant ab intrinseco. Nunc solvendae remanent quaedam difficultates. 1. Dna Duplessy, in suo interrogatorio, ad 7, ait: "Germaine n'a "jamais osé s'opposer à ma volonté, par soumission; et, le matin même...

The marriage, and for a certain time, she appeared to be a truly married person. Finally, as appears throughout the records, the primary reason that motivated German to accept the marriage was the gratitude, albeit exaggerated, that she felt towards her adoptive parents, due to the benefits she had received from them, and because of which she did not want to displease them when they proposed the marriage. Witness Castelli, in response to question 11: "Do you believe that "Mrs. and Mr. Duplessy forced her into this marriage, and how?", replied: "Through the feeling and the exaggeration of the due recognition." Witness Coutan, in response to question 10, stated: "I believe that the young woman accepted this "marriage as a result of a moral coercion stemming from the best feelings of affection and gratitude, especially considering the fact that the significant event of the adoption proceedings coincided with the marriage proposal." We previously noted that German freely consented to the adoption, which coincided with the marriage proposal. And this is confirmed by Mr. and Mrs. Duplessy; the former stated, in response to question 10: "I can affirm that if we had been her father and mother, she "might have refused this match, and even if we had not done "for her what we did, she would have refused." The latter, in response to question 10, likewise states: "I believe that she would not have entered into this marriage, if I "had been her mother, and that she only consented out of gratitude for "what I had done for her." But this is even more clearly confessed by German herself; in her supplementary interrogation, in response to question 5, she stated: "I was told "formally that they would not have adopted me if I did not enter "into a marriage that suited them; but it was only out of fear of "failing to show gratitude, a debt that I had contracted towards them "for everything they had done for me"; and in response to the question: "Did you not have enough confidence in the affection of your "adoptive parents, to believe that your reasonable refusal would not "upset them? Were you even told or led to believe that, if you refused, "they would break off the relationship?", she replied: "No, but it was a simple moral obligation that "I felt I had to fulfill." It is therefore clear that German consented to the marriage out of gratitude, which was indeed excessive and poorly understood, and which, moved by this feeling, she did not want to displease her adoptive parents when they proposed the marriage. This state of mind is very different from fear; for fear that dissolves a marriage must come from an external source; whereas, in German's case, gratitude and its "exaggeration" were internal. Now, there remain some difficulties to be resolved. 1. Mrs. Duplessy, in her interrogation, in response to question 7, stated: "Germaine never "dared to

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oppose my will, out of obedience; and, on the very morning...

[*Latin ed. p. 117*]

"Regarding her marriage, she came to me again with the intention of revealing the truth, but she lacked the courage because of what we had done for her." To these words, the following words of the witness, Anne Revela, a seamstress, must be added, who, in her interrogation, at number 11, stated: "Not daring to say no, she gave her consent; but it was not her will to say yes; for she was very sad, and on the very day of the marriage, she was weeping while I was dressing her." From this, it follows that Germana remained opposed to the marriage and did not freely consent to it. It is answered: These words must be reconciled with the words of the actress herself, who, as we have seen, openly states that she acquiesced in the marriage, or accepted it, and that, out of gratitude, she felt obligated to comply with the will of her adoptive parents; therefore, it must be said that Germana did acquiesce in the marriage, but not without some opposition, which persisted until the very marriage itself. Therefore, according to the words of the two Duplessy sisters, the fact that she dared to reveal her innermost feelings to her adoptive mother on the very morning of the marriage stems from a feeling of reverence; but since, on the part of the adoptive mother, there were never threats, nor beatings, nor quarrels, etc., this fear remained within the bounds of simple reverence, and therefore was ineffective in invalidating the marriage; this is all the more true, because, on the day of the marriage, the civil act of adoption was already perfected, and therefore Germana had nothing more to fear, neither the loss of adoption, nor disinheritance; for, according to French civil law, as has been said, the adopted child has the same rights to the inheritance of the adoptive parents as a legitimate child.

Germana, in response to question 8: "To what extent, by refusing this marriage, would you have caused them pain? Did you show them your repugnance?" replied: "I believed that, by thus deeply upsetting them, they would always bear a grudge against me, after all that they had done for me. Yes, I told her this while crying, and she replied that I wanted to thwart her in a very important matter, that I was letting happiness pass by, only in order not to live with them, which she valued very much." Thus, Germana feared the grave and lasting indignation of her adoptive mother, and, moved by this fear, she consented to the marriage; therefore, this is no longer simply a feeling of reverence; for the grave and lasting indignation of the parents is one of the factors that, when added to reverence, makes the reverence effective in invalidating the marriage.

It is answered: Indeed, according to the opinion of Sanchez, grave and lasting indignation of the father or superior, added to reverence, is suffi-

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cient to invalidate the marriage; thus, Sanchez says, in *De o...*

[*Latin ed. p. 118*]

118 Acta Apostolicae Sedis - Commentarium Officiale matrimonio, lib. 4, disp. 6, n. 14: « Si (persona metum patiens) teneret ‘probabiliter diuturnam fore indignationem, et semper se habituram ‘patrem aut virum valde infestum et indignatum, obiecturumquepas ‘sim illam inobedientiam, crediderim esse timorem cadentem in virum ‘constantem. Quis enim vir constans autprudensnon reputabit grave ‘malum, semper coram oculis habere infensum patrem aut virum, aut ‘alium a quo pendet, et eum quo semper versaturus est, maxime cum ‘vix invenías, qui linguam moderari valeat, ne male sentiat peiusque ‘loquatur de eo, cui infestus est’. Cui sententiae adhaerent Barbosa, Vota decisiva, votum 77, n. 77; D’Annibale, Summula, t. I, § 138, not. 16, edit. 3; Wernz, Ius matrimoniale, t. IV, n. 264, edit. 1904, etc. Verum haec praesenti speciei applicari nequeunt ; Germana enim proprie non* timebat indignationem parentum adoptivorum, sed tantum ‘eorum ali-”’ qualem offensionem (« ils m’en auraient toujours voulu »), quaemultum inter se distant; insuper, cum non praecessissent ‘minae, nec iurgia, nec alia huiusmodi, Germanae timor non erat probabilis, qualem requirunt supra relati auctores, sed ‘meraphantasia; quod eo magis dicendum est, quod dna Duplessy semper fuerat in filiam adoptivam benevola, imo benevolentissima, et hoc ipsum matrimoniumbonum et gratum Germanae futurum esse sperabat. Ceterum de hac ‘diuturna offensione parentum adoptivorum sola loquitur Germana; de probabilitate enim talis offensionis alte silent omnes testes. Tandem, uti iam supra dictum est, concilianda sunt citata verba Germanae cum aliis eiusdem verbis, quibus dicit se ex gratitudine matrimonium acceptasse. 3. Germana ‘matrimonium cum Emmanuele contraxit, non solum ob metum reverentialem quo erga parentes adoptivos afficiebatur, sed etiam ob metum gravis mali, scilicet ne adoptione et consequente hereditate privaretur: quae privatio utique erat grave maium pro Germana; unde metus reverentialis, ob illud adiunctum, scilicet timorem gravis mali, factus est gravis, et ‘matrimonium diremit. - Respondetur: I Non constat dnam Duplessy ‘minas intentasse Germanae de privatione adoptionis, si ‘matrimonium cum Emmanuele non acceptare!. In interrogatorio suppletivo, ad 5, Germana refert: « On m’a bien dit formellement qu’ils ne « m’auraient pas adoptée, si je ne faisais pas un mariage à leur conve’nance»; sed quis hoc dixit? Utrum dixit ante vel post ‘matrimonium? Et de quo ‘matrimonio agebatur? Unde, in eodem interrogatorio, ad 3, Germana dicit solummodo: « J’étais moralement obligée, vu les paroles ‘de ma mère adoptive, qui, disait-elle, ne m’aurait pas adoptée, ou que, ‘tout au moins, je lui aurais grandement déplu, ne m’ayant laissé nul’lement entendre que

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j' étais libre de refuser M. de Serres ». 2° Quid

[*Latin ed. p. 119*]

The Roman Rota 119 inquires as to what constitutes [grounds for annulment]. The German woman asserts that she accepted the marriage, not from hypothetical threats, but out of gratitude; after the words previously cited: "I was told very clearly that they would never have adopted me, etc.," she adds: "But this was only out of fear of failing to obtain recognition, a debt that I owed to them for everything they had done for me." 3. Furthermore, it should be noted, for the sake of legal completeness, that, for Germana, the fear of losing the adoption and the consequent inheritance was not a fear of a grave evil, as required by canon law to invalidate a marriage; for that fear (assuming it was truly in Germana's mind) was rather a fear of losing a benefit, to which benefit she had no right, or, more precisely, which was not owed to her; moreover, it is a common and certain teaching that the fear of losing a benefit that is not owed to someone does not invalidate a marriage, nor any other contract; and the reason is: to enter into a marriage in order to avoid losing a benefit is to enter into it, not out of fear of evil, but out of hope of gain. Thus Sánchez, *De matrimonio*, Book IV, section 5, paragraphs 27-29; Pontius, *De matrimonio*, Book IV, chapter 4, paragraph 10, and others commonly. Furthermore, the adoption, nor consequently the inheritance, was not owed to Germana. 4. The common life was of short duration, namely, after approximately seventeen months; for although the marriage was contracted on June 2, 1909, the separation, regarding the marital home, was already pronounced by a civil court in January of 1911; moreover, this brevity of conjugal cohabitation is scarcely reconcilable with the free consent given to the marriage by Germana.

It is answered: 1. This brevity of conjugal cohabitation can in no way be attributed to Germana's opposition to the marriage; for we have already seen, and have demonstrated from Germana's own words, that she consented to the marriage out of gratitude: and, once the marriage was begun, she generously accepted the obligations of marriage, with the hope of living in charity and peace with her husband; 2. The brevity of the conjugal life and the separation must be attributed to other causes, namely, frequent quarrels on the part of the husband, whose character was unusual, and who was harsh towards his wife. Therefore, considering all these things, both in law and in fact, and having carefully examined them, and invoking the name of Christ, We, the undersigned Auditors, sitting for the Tribunal and having God alone before our eyes, decide, declare, and definitively sentence that there is no proof of nullity of the marriage between Germana Surcouf and Emmanuel de Matri-Serres; therefore, overturning the sentence of the court of first instance, we answer the question posed: Negatively. Furthermore, We order that the same Germana Surcouf be held liable for the costs of the proceedings and for the tax to be paid for the execution of

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this sentence.

[*Latin ed. p. 120*]

Acts of the Apostolic See - Official Commentary 120. Thus we pronounce, commanding the Ordinaries of the places and the ministers of the tribunals to which this pertains, that they enforce this our definitive sentence, and against those who resist, that they proceed according to the sacred canons, and especially chapter 3, session 25, concerning the reform of the Council of Trent, using the executive and coercive means that may be more suitable and effective for the circumstances. Rome, at the seat of the Tribunal of the Holy Roman Rota, on the 31st of July, 1915. Seraphinus Many, Prefect. John Prior. Raphael Chimenti. L. SB S. From the Chancery, August 13, 1915. Rev. T. Tani, Notary.

BENEVENTO – PRECEDENCE. Under the blessed reign of Pope Benedict XV, in the first year of his pontificate, on the 13th of August, in the year 1915, the Most Reverend Fathers, Seraphinus Many, Prefect, John Prior, and Aloysius Sincero, Auditors from Tournon, in the case of Benevento – Precedence, between the Sodalitas Montis Mortuorum, or Brotherhood of the Good Death, as plaintiff, represented by its lawful procurator, Angel d'Alessandri, advocate, on one part, and the Sodalitas a Pretiosissimo Sanguine D. N. I. C., a confraternity, represented by its lawful procurator, Nazareno Patrizi, advocate, on the other part, in the degree of appeal against the sentence of the Rota of the 4th of January of the same year, 1915, interposed by the Sodalitas a Pretiosissimo Sanguine, rendered the following definitive sentence. In the town commonly called Montefalcione, in the diocese of Benevento, there exist two confraternities, namely, the Brotherhood of the Dead, or Good Death, which is not enclosed, canonically erected in the year 1695 by the Cardinal Archbishop Orsini; the other, bearing the name of the Precious Blood, canonically erected in the year 1883 by the Cardinal Archbishop di Rende, and in the year 1895, by a Brief entitled *Pias Fidelium*, raised to the title of archiconfraternity by Leo XIII. A sharp dispute arose between them.

[*Latin ed. p. 121*]

In the city of Romana, a dispute arose concerning which confraternity should be given precedence. One side cited its antiquity and its established right to precedence. The other emphasized the dignity of its archiconfraternity. However, on June 3, 1909, the General Vicar of Beneventanus, taking into account the title of this archiconfraternity, granted precedence to the Sodalitas a Pretiosissimo Sanguine. Consequently, the Sodalitas Bonae Mortis initiated a formal process in the court of Beneventana, seeking to have precedence granted to itself over the other confraternity. The cause of the ensuing dispute between the two confraternities was brought before the Holy See, and by a Pontifical rescript dated March 23, 1912, the matter was

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referred to the Sacred Rota, along with the right to appeal the aforementioned brief. On January 4, 1915, a judgment was issued by the Rota, which determined that the right of precedence belonged to the Sodalitas Montis Mortuorum. Following this judgment, the other confraternity appealed, and in the Holy Office, the customary concordat was established: whether the judgment of the Rota, dated January 4, 1915, should be confirmed or overturned, with regard to the right of precedence.

Regarding the matter of precedence, the well-known Constitution of Gregory XIII, *Exposcit pastoralis*, dated July 25, 1583, is notable, in which the principles or rules concerning precedence among confraternities are laid down. The first rule is this: "Those confratres who are in almost complete possession of precedence and the right to grant precedence, with all reclamations, protests, appeals, and other subterfuges completely removed, and with all objections ceased and set aside, must precede in processions, both public and private." Immediately following, the Pope states, and this is the second rule: "However, when it is not proven or established that such a confraternity has almost complete possession of precedence, among confratres who are litigating among themselves, those who have first used the sacco [pallium] must precede in processions, both public and private."

Therefore, first and foremost, possession of precedence is considered. If there is no established proof of such possession, because, for example, one confraternity has preceded at one time, and the other at another, then the greater antiquity of the use of the sacco or a special habit is considered. If one confraternity was indeed founded earlier, but used the sacco or special habit later, then precedence is due to the confraternity that first used the sacco, according to the words of Gregory XIII. Indeed, a confraternity that does not use any special habit has no right to precedence; see Bassus, *De Sodalitiis*, question XI, number 2, with the authorities cited therein. These are, therefore, the rules of precedence, according to common law; and to this Constitution of Gregory XIII, the Congregation of Rites referred in resolving these controversies, for example, in Nepesina, on May 10, 1608; in Telesina, on March 19, 1611 (Decreta authentica, numbers 251, 291); and also in Bononia, ACTA, volume VIII, number 4.

[*Latin ed. p. 122*]

The Acts of the Apostolic See, in the official commentary of December 9, 1617, decreed: "These confratres of the Society of the Most Holy Rosary are not able to carry the cross without a habit, nor is precedence due to them over other Societies which possess a habit" (Ibid., n. 359). Hence, authors who have written on this matter often refer to the Gregorian Constitution as the norm, according to which all controversies among confraternities regarding precedence must be resolved; see, for example, Bassus, *De Sodalitiis*, question II, nos. 1-4; Barbosa, *Ius ecclesiae universi*, book 2, chapter 11, no. 102; Francés, *De Ecclesiis cathedralibus*, chapter 25, nos.

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377, and following; Ferraris, *Bibliotheca*, article "Confraternitas," nos. 15-16; Benedict XIV, *Institutiones*, 105, nos. 84, and following, and others throughout. Similarly, controversies of this kind have always been resolved according to the norm of this Constitution by the Holy Rota, as can be seen, for example, in *Recentiores*, concerning the precedence of Albinganen, of June 20, 1653, decree 320, Part XI; and most recently, in the restored Rota, in *Mileten*, concerning rights, of January 16, 1913, before Sincero.

The only exception to this Constitution is in favor of the confraternity of the Most Holy Sacrament; as Benedict XIV explains in the aforementioned passage, no. 85: "No limits have ever been placed on this Constitution, except in the case of those sodalities which are called by the name of the Most Holy Sacrament, to whom it has always been granted to precede all others in those processions in which the sacred Eucharist is carried, with the condition that they use a pallium, and that they also customarily participate in other processions." Thus, the Holy Congregation of Rites, especially in *Lünen-Sarzanen*, of June 18, 1639; in *Vercellen*, of September 20, 1687; in another *Vercellen*, of June 18, 1695, no. 3; and in *Meliten*, of September 23, 1820 (Decree authentic, nos. 682, 1789, 1925, 2606). Therefore, the Gregorian Constitution is not set aside, even if one of the confraternities in dispute has been decorated with the title of archiconfraternity; for the law does not distinguish, and therefore neither must we; but this will be discussed further below.

As for the facts: From the records of the process, it is clearly evident that the Gregorian Constitution openly favors the confraternity of the Most Holy Death, or Good Death. Regarding the first rule, according to which attention must be paid to the possession or quasi-possession of precedence, it is clear that the aforementioned confraternity enjoyed precedence over the confraternity of the Precious Blood for thirteen years, namely from the year 1882, when this other confraternity was established, until the year 1895, when it was decorated with the title of archiconfraternity. Although the confraternity of the Precious Blood, scarcely established, attempted to claim precedence for itself, under various pretexts.

[*Latin ed. p. 123*]

Although Saint Bonaventure's Bull [S. Boniana Bota 123] existed, nevertheless, these attempts [to deny precedence] ceased. For the General Vicar of Benevento, in a letter of May 19, 1883, addressed to the spiritual administrator of the town of Montefalcione, declared that the precedence belonged to the Brotherhood of the Good Death: "In response to your note of the 18th, I inform you that precedence in ecclesiastical functions belongs by right to the congregation of the Good Death, because in the archives of this Reverend Curia, the Bull of erection and foundation of the same [Brotherhood] was found." Indeed, all witnesses, both on the plaintiff's side and on the defendant's side, with very few exceptions, testified that,

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during this period of thirteen years, the Brotherhood of the Good Death had used its right of precedence in public functions. And if we consider the period of time from the year 1895, when the Brotherhood of the Precious Blood obtained the title of archiconfraternity, until the present dispute, there have been repeated oppositions and protests against the precedence of the Brotherhood of the Good Death on the part of the new archiconfraternity. However, the Archdiocesan Curia defended the right of the Brotherhood of the Good Death, especially in the years 1898 and 1909. For example, on July 8, 1898, the General Vicar wrote to the Prefect of the Brotherhood of the Precious Blood: "In order to avoid possible controversies, I must inform you that the precedence of pious confraternities is regulated according to the priority of foundation, because 'he who is first in time, is stronger in right'; and therefore, all the efforts that this congregation of the Precious Blood would make to obtain precedence over that of the Good Death are in vain." Similarly, on March 1, 1909, the General Vicar sent the following to the archpriest of the town of Montefalcione: "Regarding the question that has arisen between these two confraternities of the Good Death and the Precious Blood, I ask you to make it known to those responsible, in the name of this Archdiocesan Curia, that nothing should be changed regarding what has been practiced in the past. I ask you to make it known that if, God forbid, the incidents just lamented were to recur, severe canonical penalties would not be lacking." From these documents, it can be gathered that the Brotherhood of the Good Death, even during this period, maintained its precedence, although not without protests, indeed, and even serious disputes, on the part of the other confraternity. The same is deduced from the testimonies of the witnesses; all the witnesses presented by the plaintiff's side testified that the Brotherhood of the Good Death maintained its precedence; the witnesses presented by the other side did not deny this, but stated only that the Brotherhood of the Precious Blood, from the time it was elevated to the dignity of archiconfraternity, began to protest against the precedence of the other confraternity.

[*Latin ed. p. 124*]

124 Acta Apostolicae Sedis - Commentarium. Officially, in the same year, 1909, the Archdiocesan Curia reached a different conclusion. For, on March 2, 1909, the primary officials of the arch-sodalitas of the Precious Blood appealed to the Archbishop of Benevento, alleging recent responses from the Congregation of Sacred Rites, by which the arch-sodalitas was granted precedence over all other sodalities. The General Vicar, first on March 15, brought the matter to the attention of the archpriest of the town of Monfalcione, and then, on June 3, wrote to the same archpriest, citing in detail the decision of the Congregation of Sacred Rites of August 18, 1877, in Abellinen, and therefore, in accordance with this decision, granted precedence to the arch-sodalitas of the Precious Blood. Against this, the confra-

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ternity of the Good Death protested, and a formal dispute was initiated in the Archdiocesan Curia against the other confraternity. Thus, as can be deduced from these facts, together with the testimonies of witnesses, the possession of precedence, up to the initiation of the dispute, belonged to the confraternity of the Good Death, although, in recent years, it had been considerably disturbed by the other confraternity. It should not be said that the witnesses who testify in favor of the confraternity of the Good Death all belong to this confraternity, and are therefore suspect, as witnesses in their own cause. For, this difficulty is addressed by the Holy Rota itself, in the aforementioned Albinganen, no. 8-12: "The argument would hold if individuals derived some benefit or honor from it; but since they derive no such benefit, because the honor due to all is fully demonstrated by them for the confraternity; Baldus, in the aforementioned chapter, De testibus, section 3; and specifically regarding confratres, Rota, decree 290, no. 13, P. V., Recentiorum; and in Anconitana, Bonorum, January 13, 1645, § "Because even (decree 320, p. IX, vol. % Recentiorum);" and more so in the case of Taurinen. Delationis baldacchini, July 4, 1646 (decree 419, no. 3, P. IX, vol. 2, Recentiorum); especially because they are drawn from the number, and are supported by the instrument of antiquity, and, in some cases, even by witnesses from the opposing side who fully confirm the accuser;" all of which seem to have been written for the present case. From this, it is clear that the first rule established by the Gregorian Constitution favors the sodality of the Good Death. But even more, the second rule established by Gregory favors this sodality, according to which, if any doubt arises regarding the possession of precedence, attention should be paid to the greater antiquity of the erection or the use of the vestments, or the special habit. Indeed, the arch-sodalitas of the Precious Blood was recently established, namely in the year 1883, or 1882; but the sodality of the Good Death dates back to the year 1695, when, on the day.

[*Latin ed. p. 125*]

The Roman Rota, on May 12th, 125, was canonically erected, as stated in the very bull of erection, by the Most Reverend Cardinal Orsini, Archbishop of Benevento. The patron of the sodality of the Precious Blood states that the sodality of Mount of the Dead was canonically erected in the year 1695, and that afterwards, during a severe plague, it ceased to exist, and later, in its place, another confraternity of a different name, namely, the Confraternity of the Good Death, was established, which remained without canonical erection, and therefore could not claim precedence. However, these points are easily resolved, for:

1. The aforementioned cessation of the confraternity of Mount of the Dead is not supported by any argument, especially since the plague, which is presented as the cause of this cessation, did not rage after the year 1695, but rather before, as correctly noted in the appealed judgment.

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2. Even if the aforementioned confraternity ceased to exist for some time, due to this or another reason, it nevertheless revived, since it was seen flourishing in the year 1793, in which year, on February 22nd, a royal decree was granted to it by King Ferdinand IV of both Sicilies; moreover, by reviving in this way, it regained its canonical erection, and all its rights, privileges, and indulgences, as if by a kind of *ius postliminii*; which is established by a decree of the Holy Congregation of Indulgences, of January 28th, of the year 1839, in Tournay (Decreta auth., n. 269), which is reported as follows: "Among the documents preserved in the church of Saint Waldetrudis, in the diocese of Tournay, are bulls and episcopal decrees by which the faculty is granted to erect a confraternity in said Saint Waldetrudis; but it is doubted whether the aforementioned confraternity was ever erected, or whether it ceased to exist due to a lack of confraters. Since, according to the tenor of the bulls, the confraternity was to be erected perpetually, it is asked whether a new erection is necessary to re-establish this confraternity, or, if it has not yet been erected, whether it is permissible to use the aforementioned bulls and decrees. The Holy Congregation, after hearing the opinions of the consultors and after careful consideration, on January 28th, 1839, declared: It does not require a new canonical erection to re-establish the sodality of Saint Waldetrudis; and even if it ceased to exist due to a lack of confraters, the indulgences and privileges contained in the aforementioned bulls are by no means lost; and therefore, they remain in force."

3. This confraternity of Mount of the Dead, which was thus strengthened by the royal decree in the year 1793, lived and flourished throughout the 19th century until today, now (in the year 1817) transferred to the church of the suppressed Convent of the Virginian Brothers, now (in the years 1820, 1828, 1832) paying the dues of the canon of the church of Saint John the Baptist, etc.; it was sometimes called the sodality of Mount of the Dead, and sometimes the sodality of the Good Death, because the Archbishop Orsini, in the bull of erection, of the year 1695, ordered that, within four months, it should take care to join the archconfraternity of the Good Death of the City, in order to enjoy the indulgences of that confraternity; from which it is clear the distinction.

[*Latin ed. p. 126*]

19ß Acta Apostolicae Sedis - The official commentary states that there is a known connection between the confraternity of the Most Holy Rosary and the confraternity of the Most Precious Blood; therefore, in this instance as well, the patron of the confraternity of the Most Precious Blood has abandoned this line of defense. Consequently, both of the preceding rules established in the Gregorian Bull, namely, the possession of precedence itself, and the greater antiquity of the foundation, clearly favor the confraternity of the Most Holy Rosary. However, the patron of the archiconfraternity of

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the Most Precious Blood particularly objects, stating that precedence is due to this archiconfraternity solely by virtue of its title as an archiconfraternity, a title which increases its dignity above all other confraternities; and since this assertion is entirely contrary to the Gregorian Constitution cited above in the exposition of the law, in which dignity is in no way presented as a title or a rule of precedence, the same patron adds in this bull that it is not a matter of archiconfraternities, but only of confraternities. However, all of this is confirmed by the addition of two decisions of the Holy Congregation of Rites, one in Abellinum, on August 18, 1877 (Decreta authentica, no. 3432), and the other in Lucerna, on September 25, 1875 (ibid., no. 3381). In the former, we read: "Precedence has been declared due to the archiconfraternity of the Blessed Virgin of Carmel over all other archiconfraternities, if any were founded after it, and over all confraternities, except for the procession of the Most Holy Body of Christ." In the latter, when dealing with several archiconfraternities contending for precedence among themselves, the Holy Congregation declared that precedence is due not on the day of the foundation of the confraternity, but from the day of the foundation to the archiconfraternity; therefore, the patron of the archiconfraternity of the Most Precious Blood concludes, without any doubt, that precedence is due to this archiconfraternity over the confraternity of the Most Precious Blood. However: 1) It is entirely improbable, and cannot be admitted, that in the Gregorian Bull, it is not a matter of archiconfraternities, but only of confraternities. For the title of an archiconfraternity, especially when it is a title of mere dignity, as in this case, does not change the nature of the entity; for an archiconfraternity remains a confraternity, just as an archbishop remains a bishop. Therefore, even the authors commonly call confraternities "sodalities" which are archiconfraternities; thus, for example, in Lucca, Adnotationes ad Concilium Tridentinum, disp. 18, no. 1, speaks of the Confraternities of the City, which have the privilege of incorporating other confraternities, and are therefore archiconfraternities. Just as the laws that apply to bishops also apply to archbishops, so too the laws that apply to confraternities also apply to archiconfraternities. This is confirmed by the end that Gregory XIII had in mind when establishing the aforementioned Constitution; for he wished, above all, indeed solely, to resolve the controversies that arose either among the mendicant orders, or among the confraternities.

[*Latin ed. p. 127*]

The Roman Rota often arises from questions of precedence: this is evident from the entire tenor of the Constitution, and from the preamble: "The pastoral office demands that we diligently strive, through those means by which all discord and litigation, and all controversies, especially among ecclesiastical persons, may be removed"; and a little further on: "We decree, with our apostolic authority, that whatever may be requested

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by any of these brethren who are contending among themselves about such precedence, or by confratres of the aforementioned confraternities, among whom disputes and causes have already arisen, or may arise in the future, etc." Furthermore, it is unlikely that Gregory intended to settle controversies between simple confraternities, but not between archconfraternities and confraternities; these latter controversies are much more frequent, as experience teaches us. This is all the more so, because, in Gregory's time, there were many archconfraternities, as is evident from history, and from the bull *Quaecumque* of Clement VIII, which was issued a few years later, namely in the year 1604, and which deals with the aggregation of confraternities to archconfraternities. Therefore, it must be said that the Gregorian bull also deals with archconfraternities, so that, as with Benedict XIV, cited above, we must conclude: "No limits have ever been placed on this Constitution, except in relation to sodalities which are called *SS. Sacramento*." Indeed, these sodalities, in the procession of the Most Holy Body of Christ, precede all others, even archconfraternities.

2) But even if it were conceded (which, as has been said, cannot be admitted) that the Gregorian bull does not deal with archconfraternities, it cannot be said, by common law, that the title of archconfraternity confers precedence over confraternities that are in possession of this precedence or of an older foundation. And this is commonly taught by learned men, who, whenever the question of precedence between confraternities is raised, refer to the Gregorian bull, as if it were common law, as mentioned above in the exposition of the law. Therefore, even in the Holy Congregation of the Council, this is the accepted doctrine; the Secretary of this Congregation wrote in the Neapolitan case, on January 23, 1897: "The sodality under the title of St. Augustine and St. Monica confesses that in this town, the custom prevailed that if any sodality was raised to the title of archconfraternity, it immediately preceded the others, even if it had not previously held precedence by right. This custom seems rather to consist of a customary or civil law; for the title of archconfraternity seems rather to refer to other sodalities of the same kind, and to establish a principal or superior rank among them; and this title does not seem to be to be considered in such a way as to be absolute.

[*Latin ed. p. 128*]

128 Acta Apostolicae Sedis - Official Commentary: "It establishes the priority and a more worthy rank before all other sodalities, even of another species and kind. Indeed, it is clear from the prescriptions of the canons that the sodality called the Most Holy Sacrament, in processions held in honor of the Body of the Lord, precedes all other sodalities and archiconfraternities. Therefore, by law, it is not established that the title of archiconfraternity absolutely overrides other titles, whether of priority of establishment or of peaceful, as it were, possession of a right of precedence,

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with respect to all other simple confraternities, even of a different kind" (Thesaurus S. C. Concilii, vol. 156, p. 87-88). Similar things are read in the folios of the same Neapolitan cause, again proposed on September 11, 1897 (ibid., p. 1008-1010). Moreover, the Holy Congregation of the Council has never granted precedence to any archiconfraternity, solely on the basis of that title, according to common law. Indeed, on April 2, 1898, in the aforementioned Neapolitan case, the Holy Congregation granted precedence to the archiconfraternity of the Holy Rosary (Thesaurus, vol. 157, p. 289); but nothing can be deduced from this in favor of archiconfraternities, either because in the town in question, a local custom existed, which even the aforementioned decree recognized as valid, by virtue of which, once established, the archiconfraternity would precede other sodalities; or because this decision of the Holy Congregation did not become a final judgment, despite the appeal of the opposing confraternity; after this appeal, the judgment was delayed (Thesaurus, ibid., p. 857), and the case was never resumed.

3) To confirm the above, it should be noted that a title of dignity, such as the title of archisodal, archbishop, etc., does not confer precedence by common law, unless in a completely subordinate manner, that is, when other titles, or other rules, of greater importance and higher rank, do not have precedence, or are exhausted. For example, in a provincial council, in the consecration of a bishop, or in the coronation of a king, the higher title of precedence, by common law, is jurisdiction; therefore, in a provincial council, a simple diocesan bishop precedes even archbishops in title, if any are present, indeed, even an archbishop in title who is an auxiliary of the Metropolitan. Thus, Pignatelli, Consultationes canonicae, vol. VI, can. 57, n. 4; de Luca, De Praeeminentiis, disp. 16, n. 7; Andreucci, De episcopo titulari, n. 144, sect. 3; likewise, the Sacred Congregation of Rites, in the decision which de Luca cites, in the place mentioned; therefore, in a provincial council, the title of dignity is not applied in order of precedence, except between an archbishop in title and a bishop equally in title. For the same reason, a bishop, in his diocese, in all functions, precedes other bishops, even those consecrated earlier, and even any archbishop, except the Metropolitan; cf. Barbosa, Jus eccles., univ., lib. I,

[*Latin ed. p. 129*]

S. Romana Rota, cap. 12, n. 11. Indeed, the same must be said of the parish priest, "who, as is said of Luca, in the aforementioned place, n. 4, precedes abbots and dignitaries, and canons of the cathedral, considered individually, and those who do not constitute a chapter, and others who are more worthy." Therefore, it is false to say that a title of dignity confers precedence, by common law, over other ecclesiastical persons, whether physical or moral, of the same species, who lack this dignity; but titles of precedence, such as jurisdiction, possession, priority of time, and others which

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are established by common law for particular ecclesiastical institutions or colleges, must be considered first; and afterwards, when these titles have been exhausted or do not apply, the title of dignity may be applied. Thus, in the matter we are discussing, if one archiconfraternity claims precedence over another confraternity, and they are of equal antiquity, and it is not established that one possesses a prior right, precedence will be granted to the archiconfraternity. 4) The answer to two decisions of the Holy Congregation of Rites, in Abellinen and in Lucerna, which the patron of the archiconfraternity of the Precious Blood has objected, is not difficult. In these decisions, without a doubt, the Holy Congregation issued its rulings according to a particular custom, which prevails in those dioceses, as well as in many other parts of the ancient Kingdom of Naples. This custom originated from a royal decree of Ferdinand II, King of the Two Sicilies, dated November 16, 1853; Article I of this decree states: "Precedence in public functions is granted to archiconfraternities in conjunction with confraternities, and, among the former, the same precedence will be regulated by the date of the decree of elevation to the dignity of archiconfraternity" (Thesaurus, 1.156, p. 1007). This decree is of no value in canon law, because neither in the concordat of the Holy See with Ferdinand I, King of the Two Sicilies, of the year 1818, nor in any other public document, was any power granted to these kings over confraternities; but this decree, although null in itself, may have given, and indeed did give rise to, the custom in question. Therefore, according to this custom, the Holy Congregation of Rites decided and ought to have decided; for in many ecclesiastical matters, and especially in matters of precedence, much, indeed very much, attention must be paid to custom, as all authors teach, and as the jurisprudence of the Roman Congregations and the Holy Supreme Tribunal demonstrates. 5) But although it may be granted (although this cannot be admitted) that the title of archiconfraternity, in general, confers precedence over confraternities, nevertheless, in our specific case, the title of archiconfraternity, the sodality granted to the Precious Blood by Leo XIII by the Brief *Pias fidelium*, dated...

[*Latin ed. p. 130*]

130 Acta Apostolicae Sedis - Commentarium Officiale, August 29, 1895, cannot produce the aforementioned effect with regard to the confraternity of the Most Holy Death. The reason for this is most clearly stated in Rule 18 of the Chancery: "Furthermore, so that justice may not be delayed by various matters which are frequently raised in cases concerning commissions or mandates, or declarations, the Holy Father has decreed that it is his intention that, by whatever signature, or concession, or grace, or apostolic letters concerning commissions, or mandates, or declarations of this kind, even if issued *ex propriis* [by his own authority], and with certain knowledge, or even before a dispute has arisen, no right whatsoever pre-

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viously acquired by anyone shall be in any way taken away." Therefore, before the sodality of the Precious Blood was elevated to the dignity of an archiconfraternity, the confraternity of the Most Holy Death certainly and clearly possessed the right of precedence over the other confraternity, and it could not lose this right by virtue of the aforementioned Brief. It cannot be said that the most effective clauses were placed in this Brief, which clearly testify to the will of the Pontiff, namely, the invalidating decree, and the clause: "Notwithstanding constitutions and apostolic sanctions, and all other things to the contrary." For, as the authors commonly teach, all these clauses are still superseded by the aforementioned Rule 18, by which the Pontiff declares that he will never intend to take away a right previously acquired; see Fagnan, in cap. Ceterum, 3, De rescriptis, nos. 23-27; Riganti, on this Rule of the Chancery, nos. 28-32. Therefore, in order for Leo XIII to take away the right of precedence granted to the confraternity of the Most Holy Death by the aforementioned Brief, a special clause would have been necessary that would derogate from the aforementioned Rule 18; such a clause is not found in the Brief.

Nor can it be said that a derogatory clause is not required when it is a matter of a grace or privilege that is inherently prejudicial, as the aforementioned authors say, Fagnan, in the cited passage, nos. 28 and following; Riganti, in the cited passage, nos. 51 and following; but such is not the case with the granting of the title of archiconfraternity, which (in the given, not conceded, hypothesis) confers precedence on the archiconfraternity by itself. For this is true, when the grace granted is essentially and substantially prejudicial, so that it cannot be conceived without prejudice: e.g., exemption from tithes, exemption from the jurisdiction of the bishop, union, division of benefices, etc.; in such a case, if the Pontiff grants such a grace, it is clear that he also intends and wills the prejudice that will arise from it, and it is not necessary for him to specifically derogate from Rule 18 of the Chancery; but it is entirely different when the grace is not inherently prejudicial, but only accidentally, as is the case with the granting of the title of archiconfraternity; which in itself harms no one, but only accidentally, namely, if there is another confraternity present in the same place, which possesses the right of precedence, and which...

[*Latin ed. p. 131*]

The Roman Rota, in number 131, might be deprived of its rightful jurisdiction by means of the aforementioned concession. Therefore, in order that the Pontifical concession, in this case, may remove the right of a third party, it is necessary that the derogatory clause of Rule 18 be included in the brief; otherwise, it cannot be established that the Pontiff intends to consent to a prejudice.

As is evident from the tenor of the aforementioned Rule, as cited above, even a brief granted *motu proprio* by the Pontiff does not imply a prej-

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udice to the right of a third party, unless it expressly derogates from the Rule; therefore, *a fortiori*, no such prejudice arises when, as in this case, the brief is granted at the request of one party, and especially when, as in this case, the party requesting it, namely, the sodality of the Precious Blood, in its petition, did not make even the slightest mention of another confraternity, present in the same place, and enjoying the right of precedence; in which case, the Pontiff could in no way have known of any prejudice to be inflicted upon it, much less have intended to do so.

Therefore, having considered and carefully examined all matters, both in law and in fact, and invoking the name of Christ, We, the undersigned Auditors, sitting for the Tribunal, and with our eyes fixed only on God, do hereby decide, declare, and definitively sentence that no right of precedence belongs to the sodality of the Precious Blood over the sodality of Mount Calvary, or the Good Death, and therefore, to the question proposed, We answer: Affirmatively to the first part, Negatively to the second part, that is to say, confirming the sentence of Bota of January 4, 1915.

Furthermore, We condemn the sodality of the Precious Blood to pay all the judicial expenses of this second instance, and the full tax for the issuance of the sentence, but not the honorarium of the advocate. Thus We pronounce, ordering the Ordinaries of the places and the officials of the tribunals to whom it pertains, to enforce this Our definitive sentence, and against those who resist, to proceed according to the norms of the sacred canons, and especially chapter 8, session 25, of the Council of Trent, using the executive and coercive means that may be more effective and appropriate for the circumstances.

Rome, in the seat of the Tribunal of the Holy Roman Rota, on August 13, 1915.

Seraphinus Many, Presiding.

Ioannes Prior.

L. i$i S. Aloysius Sincero.

From the Chancery, August 18, 1915.

Sac. T. Tani, Notary.

[*Latin ed. p. 132*]

Acts of the Apostolic See - Official Commentary, DIARY OF THE ROMAN CURIA, HOLY CONGREGATION FOR RELIGIOUS. NOTICE OF COMPETITION. It is hereby notified that a competition for a minor position will be held by written examination in the Holy Congregation for Religious on May 4th of the coming year, at 8 o'clock, in the palace of the Chancery. Those ecclesiastics who wish to participate in this competition must, within one month from the date of this notice, present to the Secretariat of said Holy Congregation an application accompanied by the necessary qualifications for admission. Rome, March 30, 1916. f Adolfo, Bishop

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of Canopo, Secretary. SECRETARY OF STATE. BY PAPAL BULLS, THE HOLY FATHER HAS DEIGNED TO NOMINATE: March 6, 1916. — His Eminence, Cardinal Vincenzo Vannutelli, Protector of the Society of Mary (Marianists). March 16. — Monsignor Pietro Iorio, titular Archbishop of Nicomedia, Consultor of the Holy Congregation for Religious. March 24. — His Eminence, Cardinal Domenico Serafini, Prefect of the Holy Congregation for the Propagation of the Faith, for matters pertaining to the Latin rite and to that of the Eastern rite. March 25. — His Eminence, Cardinal Raffaele Merry del Val, Secretary of the Supreme Holy Congregation of the Holy Office, Member of the Holy Congregation for the Propagation of the Faith, for matters pertaining to the Eastern rite. March 29. — His Eminence, Cardinal Domenico Serafini, President of the Pontifical Seminary of the Holy Apostles Peter and Paul for Foreign Missions.

[*Latin ed. p. 133*]

From the Roman Curial Diary, 133. By Apostolic Briefs, the Holy Father has deigned to appoint: Apostolic Protonotaries, as participants: February 19, 1916. — Mons. Paolino Ladeuze, Magnificent Rector of the Catholic University of Leuven. March 10. — Mons. Anthony Pujia, General Vicar of the Archdiocese of Santa Severina. March 18. — Mons. Galeazzo Mancia-Salvini, Abbot Commendatory of Campofilone in the Diocese of Foligno. March 19. — Mons. Angelo Maria La Monaca, General Vicar of the Diocese of San Severo. Domestic Prelates of His Holiness: March 1, 1916. — Mons. Luigi Zefilippo, Abbot Parochial of S. Euplio in Castelbaronia of the Diocese of Lacedonia. — Mons. Raffaele Tagliamonte, of the Diocese of S. Agata dei Goti. March 2. — Mons. Giuseppe Pétrone, Rector of the Gesù Vecchio in Naples. March 9. — Mons. Guglielmo Saturnino Bruzat, of the Diocese of Périgueux. March 10. — Mons. Giuseppe Pinazzi, General Vicar of the Diocese of Piacenza. March 12. — Mons. Vincenzo Bianchi-Cagliesi, of Rome. March 18. — Mons. Alessandro Schnuetgen, Senior Canon of the Metropolitan Church of KolÃn. March 19. — Mons. Nicola Pensati, of the Diocese of San Severo. March 22. — Mons. Giovanni T. O'Connell, General Vicar of the Diocese of Toledo (Ohio). — Mons. Agostino I. Schwertner, of the same Diocese. — Mons. Giovanni Battista Le Camus, of the Diocese of Martinica. March 28. — Mons. Cesare Manzoni, of the Diocese of Lodi. March 30. — Mons. Edgardo Vauquelin, of the Diocese of Moulins. March 31. — Mons. Riccardo Paolucci, of the Diocese of Fano. — Mons. Giuseppe Iguerastegui, of the Diocese of Pamplona. HONORS. By Apostolic Briefs, the Holy Father has deigned to bestow the following honors: The Order of the Holy Sepulchre with Plaque: March 29, 1916. — To the Most Noble Marquis Carlo Pagani-Planca. The Grand Cross of the Order of Saint Gregory the Great, civil class: March 29, 1916. — To the Most Noble Demetrio

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Nelidow, Minister of ReuÃ□ to the Holy See.

[*Latin ed. p. 134*]

Acta Apostolicae Sedis - Official Commentary.

The Grand Cross of the Order of Saint Gregory the Great, military class: March 21, 1916. – To the General Count Carlo de Pélacot, first aide-de-camp to His Most Serene Highness the Prince of Monaco.

The Plaque of the Order of Saint Gregory the Great: March 27, 1916. – To the Commissioner Giovanni Battista Di Pietro, formerly commander of the honorary palace guard of Guardiagrele. April 1. – To the Count Commissioner Marcello Czarnecki, of the archdiocese of Gnesen and Posen.

The Commander of the Order of Saint Gregory the Great, civil class: February 19, 1916. – To the Signor Carlo Dessain, mayor of Malines. March 14. – To the Signor Riccardo Rodolfo de Court Beadon, of the archdiocese of Simia. March 21. – To the Signor Adolfo Fuhrmeister, private secretary to His Most Serene Highness the Prince of Monaco. March 27. – To the Signor Nicola Matarazzo, of the Abbey Nullius of the Most Holy Trinity of Cava dei Tirreni. March 31. – To the Count Francesco Kwilecki, of the archdiocese of Gnesen and Posen.

The Knighthood of the Order of Saint Gregory the Great, civil class: February 19, 1916. – To the Signor Francesco Dessain, of the archdiocese of Malines. March 19. – To the Signor Federico Ganac-Marquis, of the archdiocese of Québec. March 24. – To the Signor Francesco Giacomo Giuseppe Gibbons, of the archdiocese of Birmingham.

The Knighthood of the Order of Saint Gregory the Great, military class: February 19, 1916. – To the Signor Adamo Aerts.

The Commander of the Order of Saint Sylvester the Pope: March 18, 1916. – To the Signor Giovanni Fusshoeller, of the archdiocese of KolÃn.

The Knighthood of the Order of Saint Sylvester the Pope: February 29, 1916. – To the Signor Gastone Chantrieux, of the diocese of Amiens. March 14. – To the Signor Giuseppe Sebastiani, of Rome. – To the Signor Luigi Casazza, employed by the Bertarelli firm in Rome. March 29. – To the Signor Renato Basset, corresponding member of the Institute of France.

[*Latin ed. p. 135*]

From the Roman Curia Diary, 135.

MAJORDOMO OF HIS HOLINESS.

By the tickets of His Eminence, the Reverend Monsignor, the Holy Father has deigned to appoint:

Extraordinary Secret Chamberlains of His Holiness:

November 17, 1915. — Monsignor Carlo Sentroul, of the diocese of São

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Paulo (Brazil).

December 29. — Monsignor Carlo Schwechler, of the diocese of Płock. — Monsignor Luigi Müller, of the same diocese.

January 7, 1916. — Monsignor Antioco, Doctor Cossu, of the diocese of Iglesias. — Monsignor Ferdinando, Doctor Bernardi, of the same diocese.

January 31. — Monsignor Carlo Lipari, of the diocese of Palermo. — Monsignor Emilio, Doctor, Professor Seraglia, of the diocese of Padua.

February 7. — Monsignor Cesare Angotti, of the diocese of Nicastro.

February 14. — Monsignor Francesco Marengo, of the diocese of Malta.

February 21. — Monsignor Ludovico Janssens, of the diocese of Roermond. — Monsignor Lorenzo Le Bron de Vescela, of the same diocese. — Monsignor Giovanni Canoy, of the same diocese.

February 29. — Monsignor Pietro Bonnin, of the diocese of Autun.

March 4. — Monsignor Antonio Luciarini, of the diocese of Cagli and Pergola.

March 9. — Monsignor Gaetano Cicognani, of the diocese of Faenza.

March 14. — Monsignor Geremia Pascucci, of the diocese of Fano. — Monsignor Emidio Vichi, of the same diocese.

March 22. — Monsignor Antonio Cieplinski, of the archdiocese of Warsaw. — Monsignor Ceslao Sokolowski, of the same archdiocese.

Honorary Chamberlains, wearing the peacock blue cassock of His Holiness:

October 16, 1915. — Monsignor Giovanni G. Fitzgerald, of the diocese of Brooklyn.

November 17. — Monsignor Giovanni Riegler, of the diocese of Linz.

January 31, 1916. — Monsignor Antonio, Professor Della Valle, of the diocese of Padua. — Monsignor Pietro Millet, of the diocese of Carcassonne.

February 9. — Monsignor Alfonso Gutiérrez, of the archdiocese of Puebla (Mexico).

February 21. — Monsignor Enrico Poels, of the diocese of Roermond.

February 29. — Monsignor Felice Canelli, of the diocese of San Severo.

March 15. — Monsignor Enrico Esser, of the archdiocese of Cologne.

March 18. — Monsignor Luigi Magro, of the diocese of Treviso.

Extraordinary Secret Chamberlains with Sword and Cape of His Holiness:

December 22, 1914. — The Honorable Count Felice Saedt, of the archdiocese of Munich of Bavaria.

September 25, 1915. — The Honorable Count Domenico Des Enffans d'Avernas, of the diocese of Płock.

November 17. — The Honorable Michele von Szczaniecki, of the diocese

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of Kuyma.

[*Latin ed. p. 136*]

136 Acta Apostolicae Sedis - Official Commentary, February 12, 1916. — The Most Noble Viscount Carlo de Calan, of the Archdiocese of Rennes. — The Most Noble Marquis Raoul de Netumjères, of the same Archdiocese. February 29. — The Most Noble Marquis Gian Raniero Paolucci de' Caíboli Ginnasi, of the Diocese of Forlì. March 3. — The Most Noble Count Alberto Gandelet, of the Diocese of Nancy. Honorary Knights of the Order of St. Hubert, with Swords and Mantles, in addition to the regular number: January 24, 1916. — Mr. Giovanni Power, of the Diocese of Galloway. February 19. — Mr. Domenico Lavitrano. March 25. — Mr. Giovanni Battista di Pietro, formerly Commander of the Guardiagrele Palace Guard. Honorary Chaplains of His Holiness: January 17, 1916. — Monsignor Pancrazio Berardi, of the Diocese of Nocera and Gualdo. — Monsignor Felice Bruschelli, of the same Diocese. — Monsignor Celeste Becchetti, of the same Diocese. February 19. — Monsignor Angelo Sosio, of the Diocese of Sessa Aurunca. February 22. — Monsignor Giuseppe Carminati, of the Diocese of Bergamo. Honorary Chaplain *extra urbem* of His Holiness: February 22, 1916. — Monsignor Ernesto Monteleone, of the Diocese of Sarno.

NECROLOGY: March 3, 1916. — Monsignor Valeriano Menendez y Conde, Archbishop of Valencia (Spain). March 6. — Monsignor Edoardo Hermann, titular Bishop of Cibistra, auxiliary Bishop of Warmia. March 14. — Monsignor Giuseppe Bernardo Doëbbing, Bishop of Nepi and Sutri. March 19. — His Eminence Cardinal Girolamo Maria Gotti, Prefect of the Sacred Congregation for the Propagation of the Faith, and of that for the Affairs of the Oriental Rite. March 22. — Monsignor Giacomo Merizzi, titular Archbishop of Mocesso. — Monsignor Ferdinando de Souza Monteiro, Bishop of Spirito Santo in Brazil. March 28. — Monsignor Stefano Sotero Ortynskyi de Labetz, titular Bishop of Daulis, Bishop of the Greek-Ruthenian Rite for the United States of America. March 29. — Monsignor Vincenzo Franceschini, Bishop of Fano.

[*Latin ed. p. 137*]

May 5, 1916, Year VIII - Vol. VIII, No. 5. ACTA APOSTOLICAE SEDIS, Official Commentary. ACTA OF POPE BENEDICT XV. APOSTOLIC LETTER I. ADDRESS TO THE CHRISTIAN PEOPLES CONCERNING INDULGENCES OF THE EAST, JOINED TO THE CHURCH OF ROME. POPE BENEDICT XV. For the perpetual memory of this matter. – Since the truth of the Catholic Church shines forth above all through unity, there is nothing more to be desired than that those people, unfortunately torn away from the embrace of this Mother, may finally return to her, with changed minds and wills. These desires and aspirations were never abandoned by the Roman Pontiffs, Our Predecessors, and, especially concerning the

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schism of the East, they have always striven, with all their power, whether through the authority of Councils, or through paternal exhortations, or even through prayers and works, to ensure that so many noble Christian peoples, who have unfortunately strayed from it, might once again profess the ancient faith, with one heart and one soul. Therefore, the prayers which we offer, and all that pertains to them, so that the Christian peoples of the East may once again form one flock with the Church of Rome, and be governed by one Shepherd, we readily approve, and after having heard the Most Reverend Fathers, Cardinals, General Inquisitors of the Holy Roman Church, we enrich them with the heavenly treasures, of which We, by the highest authority, have been appointed stewards. Therefore, to all the faithful of both sexes, who everywhere on earth shall recite the following prayers in any language, provided that they are expressed verbatim, every day for a month, and on one day of that month, to the ACTA, vol. VIII, no. 5. – 5-5-1916. 10

[*Latin ed. p. 138*]

Acts of the Apostolic See - Official Commentary 138, granting, to those who, having made a devout visit to a church or public oratory, on a day when they are truly penitent and have confessed their sins and received Holy Communion, and who have prayed according to Our intention, We mercifully grant and bestow plenary indulgence for all their sins and remissions. To those faithful who, at least with a contrite heart, have recited these prayers on any day, We grant three hundred days of remission from the penances prescribed to them, or from any other debts of penance, according to the usual form of the Church. We also mercifully permit that all these indulgences, remissions of sins, and relaxations of penances may also be applied for the benefit of the souls of the Christian faithful detained in Purgatory, as a form of suffrage. This, notwithstanding anything to the contrary. These present decrees are to remain in force perpetually. Finally, so that no alteration or error may occur in the future concerning these prayers, We order that a copy of them be preserved in the archives of the Apostolic Briefs. Prayer for the union of the Christian Churches of the East in Rome. "O Lord, who have united the diverse nations in the confession of Your Name, we pray for the Christian peoples of the East. Remembering the eminent place they have held in Your Church, we beseech You to inspire them with the desire to resume it, so that they may form one flock with us under the guidance of one Shepherd. May they, together with us, understand the teachings of their holy Doctors, who are also our Fathers in the Faith. Preserve us from every error that might separate us from them. May the spirit of concord and charity, which is a sign of Your presence among the faithful, hasten the day when our prayers may be united with theirs, so that every people and every tongue may acknowledge and glorify our Lord Jesus Christ, Your Son. So be it." Given in Rome, at St. Peter's, under

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the Fisherman's Ring, on the fifteenth day of April in the year 1916, in the second year of Our Pontificate. P. L. S. CARD. GASPARRI, Prefect of the Secretariate of State.

[*Latin ed. p. 139*]

Acta Benedicti PP. XV 139 II

A CERTAIN PRAYER TO SAINT PETER, PRINCE OF THE APOSTLES, GRANTING INDULGENCES.

BENEDICT XV.

For the perpetual memory of this matter.

— Since our Divine Redeemer established the first Pontiff and Ruler, the Blessed Peter, for the entire Church, which He founded with His precious blood, We consider nothing more fitting than that the faithful should implore the aid of that same Prince of the Apostles. It is indeed fitting, whether to preserve faith integrally, or to follow the Holy Mother Church with steadfast veneration and love, to seek the help of Him who, with a fervent heart, confessed Christ, the Son of the Living God, and who was constituted the rock and foundation of that very Church. Therefore, the prayers which are submitted are received with a willing heart, and We enrich them with heavenly treasures, of which custody the Most High has divinely entrusted to Us. Wherefore, with the counsel of the Most Reverend Fathers, the Cardinals, General Inquisitors, We grant, to all and each Christian faithful, of both sexes, who, with at least a contrite heart, shall recite, in any language, the prayer described below, wherever on earth, that it be expressed verbatim, three hundred days of the penitences enjoined upon them, or of any other kind of penitence due, according to the usual form of the Church. This applies to those who do the contrary, and to all others. This grant is valid perpetually. Furthermore, so that nothing may be altered or corrupted in those prayers in the future, We order that a copy of them be preserved in the archive of Apostolic Briefs.

Prayer to the Apostle Saint Peter, first Pope.

"O glorious Saint Peter, who, as a reward for your living and generous faith, for your profound and sincere humility, and for your ardent love, were distinguished by Jesus Christ with the most singular privileges, and especially with the principate over all the Apostles, and with the primacy over the entire Church, of which you were also constituted the rock and foundation, grant us the grace of a living faith, which fears not to manifest itself openly in its integrity and in its manifestations, and which, if the occasion arises, will even give blood and life rather than ever failing. Inspire in us a true attachment to our Holy Mother Church, so that we may be

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sincerely and always closely united with the Roman Pontiff..."

[*Latin ed. p. 140*]

140 Acta Apostolicae Sedis - Official Commentary "Behold, the heir of your faith, of your authority, the only true Head "visible of the Catholic Church, which is that mysterious ark outside "of which there is no salvation. May we follow its teachings and "counsels with docility and obedience, and observe all its precepts, "so that we may have here on earth peace and tranquility, and one "day attain eternal happiness in Heaven. So be it." Given in Rome, near St. Peter's, under the Fisherman's ring, on the twenty-seventh of April, 1916, in the second year of Our Pontificate. P. CARD. GASPARRI, Secretary of State. LETTERS I TO R. P. D. EDMUND PRENDERGAST, ARCHBISHOP OF PHILADELPHIA, ON THE FIFTYTH ANNIVERSARY OF HIS PRIESTHOOD, WRITTEN TO HIM, GRATITUDE BEING OFFERED FOR HIS MERITS. Venerable Brother, greetings and the apostolic blessing. — As your fiftieth anniversary of the priesthood approaches, and as your clergy and people will honor you with all the offices of piety and devotion for your merits, we do not wish that you should lack a sign of Our grateful sentiments. All the more so, because, having achieved so much in Our sight, we have nothing older than to offer you a testimony of paternal charity. Therefore, first of all, we give thanks and praise to the Lord who has been so gracious to you, who has deserved so much for the Church. We know how diligently you have always fulfilled all the duties of a good pastor, and with what devotion you have always honored this Apostolic See, and have striven to have it honored. Moreover, no one is ignorant of the monuments of your generosity and piety: the sacred buildings which you have enlarged, or which you have founded from the foundations; the sacred seminary, increased and provided with all necessities; the hospital of singular size, opened for the benefit of the sick; and other numerous works of beneficence. It is also well known to all that you have especially striven and cared for the remarkable growth of the sodality called Holy Name; that sodality, we say, which, born to repress the contumelious voices against the divine majesty, has nevertheless...

[*Latin ed. p. 141*]

Acta Benedicti PP. XV, 141: He diligently defends and promotes this important matter. But you, by acting in this way, have certainly not neglected that work which ought to be dearest to every good man, namely, the propagation of the Catholic faith; and in assisting which, as we have learned, your diocese has shown great generosity, certainly under your guidance and encouragement. Remembering all these things, we congratulate you, and we pray to God that He may add many more years to your life, years full of similar works and merits. We gladly do this also for this reason, because, concerned about those in whom the Apostolic See is involved in difficulties,

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you acted among your clergy and people, and with considerable success, to encourage them to contribute of their resources to the Vicar of Christ. And as a pledge of heavenly favor and as a testimony of particular benevolence, we impart to you, venerable Brother, and to all those entrusted to your care, our most loving Apostolic Blessing. Given in Rome, at St. Peter's, on the tenth day of October, 1915, in the second year of Our Pontificate. BENEDICT P. P. XV

To the Most Reverend Joseph Bardoux, S.J., Director of the "Schola Apostolica" of Lanciennes, on the occasion of the completion of his fiftieth year, since the first school of this kind was opened in Avignon.

Beloved Son, greetings and Apostolic Blessing.

It is a happy occurrence that, while we are deeply saddened by the hatred and envy that we see in so much of the human race leading to the destruction of nations, it happens that, as we recall the beginnings and growth of the Institute to which you belong, on the occasion of its fiftieth anniversary, a splendid example of Christian charity is presented to us, which greatly refreshes the spirit. For to bring the light of the Gospel to those who sit in the shadow of death, everyone sees to be an act of outstanding charity, since it is the same as communicating the benefits of the divine Redemption to them; and while those who provide financial support to those who preach the Gospel contribute much, those who properly train and form these preachers contribute even more. This was the goal that was set by that excellent priest of the Society of Jesus, Alberic de Foresta, who founded the first "Schola Apostolica." In this matter, one can marvel at the divine providence: for while he desired nothing more for the sake of God's glory and the salvation of souls, than to bring the light of the Gospel to the barbarians from life.

[*Latin ed. p. 142*]

142 Acta Apostolicae Sedis - The official commentary on the translation of immunity to the Christian faith and civil worship was not so much the result of a deliberate decision, but rather was achieved through the efforts of its students, whom it continuously sent forth, one after another, to all the regions of barbarism. And it is also remarkable how divine benevolence has always favored this undertaking. For these fifty years since the Apostolic School at Avignon has been established, not only have many, and indeed a great number, of heralds of Christian wisdom been produced, thoroughly instructed for so important a work; but these have also achieved great results through similar endeavors. It is known to all that, whether within the Society of Jesus itself or within other religious families of the same kind and name, Alberic de Foresta has been either the founder or, at the very least, a significant contributor. Therefore, as we pursue the merits of this most pious man with praise, it is certainly fitting that we offer prayers of thanksgiving to God, and that we implore Him to continue to foster this

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most beneficial work. Its strength has indeed been greatly weakened by the sadness of these times; but, since all things serve the glory and honor of Jesus Christ by divine will, we trust that, when this great disturbance has passed, and along with other institutions for the benefit of the Holy Church, this very institution will flourish with the hope of even greater fruits.

Meanwhile, as a pledge of heavenly blessings and a testament to Our benevolence, We impart to you, beloved Son, and to all who are of the School and who support it, Our most loving apostolic blessing. Given in Rome, at St. Peter's, on the first day of March, 1916, in the second year of Our Pontificate. BENEDICT XV.

TO THE RELIGIOUS MAN CYRUS OF PISA, O.F.M., OF OBLATES, OFFERING THANKS FOR THE EPHEMERIS ENTITLED "PICENUM SERAPHICUM."

Beloved Son, religious man, greetings and Our apostolic blessing. You could scarcely aspire to higher or more useful endeavors. For Franciscan institutions are such that they do not merely pertain to a single religious family, but they recount the history of many nations, whose events, customs, institutions, and even the finest studies of the arts have been so deeply and thoroughly influenced by them! The Franciscan spirit and form, as it were, are such that...

[*Latin ed. p. 143*]

Acts of Benedict, Pope XV, 143, concerning the Father inspiring souls and kindling charity. You have indeed diligently undertaken to bring to light such monuments, which are frequent in Picenum, through the chronicle which you write, the "Seraphic Picenum"; and this is approved by Us not only for the reason that it contributes to the dignity and splendor of the Franciscan Order and the Catholic Church, but primarily because it recalls those to the tranquility and peace of times past, while at the same time reminding them that men have now gone much further, so that "the charity of many has grown cold." In the meantime, we offer you, dear Son, our heartfelt thanks for the volume presented to Us; and that you may diligently pursue the work which you have so commendably begun, we impart to you and your associates our apostolic blessing, a testament of Our good will and the heavenly assistance of divine aid, in the Lord. Given in Rome, at St. Peter's, on the 7th of March, 1916, in the second year of Our Pontificate. BENEDICT XV.

TO THE REVEREND FATHER DOM CAMILLO MORESCHINI, ARCHBISHOP OF CAMERINO, CONCERNING THE INSTITUTION FOR PROMOTING CHRISTIAN DOCTRINE IN PICENUM. Venerable Brother, greetings and apostolic blessing.

As you know, we have recently, with your presence, praised the plans

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of certain outstanding men who are dedicated to promoting Christian doctrine in Picenum, plans which were presented at the meeting held in Lauretano. Now, however, since they have more carefully explained to Us in writing the things which they propose to do, We write to you, Venerable Brother, who were the author and, above all, the advocate of that meeting, drawn by a certain gravity of purpose, so that We may reiterate Our praise and encourage you to perfect your efforts. For of all the things in which Catholics work for the benefit of the Church, what could be greater, what more divine, than that you strive to instill in the minds of children, who are the hope of the future, knowledge of the Christian faith and of the law? This is eternal life, that they may know You, the only true God, and Jesus Christ whom You have sent (John 17:3). And in this very work, nothing is more opportune today, when impious men, believing that they can undermine the Church in Fundi...

[*Latin ed. p. 144*]

144 Acta Apostolicae Sedis - Commentarium Officiale: They strive, with the utmost cunning, to ensure that the puerile age is alienated from all religious influence. However, it appears that you have arranged everything very well, but especially that which provides for this discipline, so that, where it is lacking in public elementary schools, it may be supplied by Curates. We believe that this will undoubtedly prove to be a very beneficial undertaking, and that our children will become accustomed to religious instruction to no lesser degree than to other subjects, if it is imparted to them by no one other than those chosen from among the public school teachers, and that, indeed, within the very school buildings, or in their immediate vicinity. This is certainly not a matter of small expense or concern, but rather of abundant fruit, as We ourselves learned by experience when We governed the church of Bononia. It remains for you to make the efforts you have begun even more vigorous, and, with united hearts and concordant studies, to stir up a new spirit of Christian life throughout the entire region of Picena, with Bishops leading the way, confident in the divine graces, which will certainly not fail you. We bestow upon you, Venerable Brother, and upon all who direct or participate in this most salutary work, our most heartfelt apostolic blessing. Given at Rome, near St. Peter, on the tenth day of the month of March, in the second year of Our Pontificate. BENEDICT XV.

TO THE REVEREND FATHER D. BARNABAS LEMNIBUS PIEDRABUENA, GREETINGS, CONCERNING THE APPARITIONS OF THE BLESSED VIRGIN «OF CATAMARCA, VALLEY OF THE SUN». Venerable Brother, greetings and our apostolic blessing. – You have fulfilled your office with great gratitude in your letters to Us. You have informed Us that the Catholics of Catamarca are so devoted to the Mother of God that they wish to commemorate the twenty-fifth anniversary of the solemn presentation,

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with ecclesiastical rites, of the golden diadem to the image of the Virgin, by a renewed demonstration of piety. The volume which you kindly offered to Us makes Us even more aware not only of the antiquity of that image, but also of the mutual and never-interrupted affection and obedience, and of the almost countless benefits received, between the people of Catamarca and their celestial Patroness; so much so, that...

[*Latin ed. p. 145*]

The feast of Saint Benedict, Bishop, on the fifteenth of [the month], is the greatest [festival] in this vicariate. Under the auspices and with the help of our Most Holy Lady, "of the Valley," as you call her, and which has been received by your ancestors and religiously preserved by posterity. These things, venerable Brother, are pleasing to us to remember, and they give good hope that, in the coming celebrations, and with the most devoted piety of her children, of whom this [festival] is the first offering, this office, the sweetest Mother will be diligently obeyed, and that the faithful of your diocese will, day by day, devote themselves to her more and more, as they have so greatly experienced how much she loves them. As for us, we not only remember with you the joy of this event and with paternal charity, but, so that we may seem to be present with you in some way, we gladly grant, with fervent prayers, to you and to all those other Catholics who shall gather there to venerate the most august Virgin, the power to gain a plenary Indulgence, according to the usual custom of the Church, and, that this may add to the splendor of the celebration, we designate the venerable Brother Achilles, Archbishop [titular] of Thessaloniki, Apostolic Legate in this Republic, to represent us among you during those days, and to pray salutarily for you in our name and with our authority. But if, for some reason, he cannot be present, there is no one more fitting for this office, no one more worthy of this honor; unless, perhaps, the duties of your humanity have led you to entrust another Prelate with the leadership in this celebration. In order that no testimony of our benevolence may be lacking to those who labor with you in preparing for these celebrations, we impart to you, venerable Brother, and to all of them, our apostolic blessing, the reconciler of heavenly gifts, in the Lord forever. Given in Rome, at Saint Peter's, on the fourteenth day of March, in the year 1916, in the second year of our pontificate. BENEDICT XV.

[*Latin ed. p. 146*]

146 Acta Apostolicae Sedis - Official Commentary ACTA OF THE HOLY CONGREGATIONS SUPREME HOLY CONGREGATION OF THE SACRED OFFICE. DECREE CONCERNING IMAGES DEPICTING THE MOST BLESSED VIRGIN MARY WEARING CLERICAL GARMENTS. Since, especially in recent times, images depicting the Most Blessed Virgin Mary wearing clerical garments had begun to be painted and disseminated,

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the Eminent and Reverend Cardinals, Inquisitors General, after careful deliberation, on the fourth day of January, 1913, decreed: "That the image of the B. V. Mary wearing clerical garments is to be condemned." Furthermore, on the fourth day of March, 1916, they ordered that this decree be made public. Given at Rome, from the offices of the Holy Office, on the eighth day of April, 1916. Aloysius Castellano, & Royal and Universal Secretary. II. DECREE: "THE QUESTION REGARDING THE INDULGENCE OF 'LAUDETUR JESUS CHRISTUS' IS DOUBTFUL." The Archbishop of Lviv, Andrew, of the Ruthenians, proposed the following question to the Supreme Holy Congregation of the Sacred Office: "Does the Christian salutation 'Laudetur Jesus Christus' grant, besides the indulgences during life, also a plenary indulgence at the hour of death, if he who is accustomed to use this salutation in life, at the hour of death, at least in his heart, if he cannot with his mouth, invokes the Holy Name of Jesus? It is therefore asked, whether..."

[*Latin ed. p. 147*]

The Most Holy Congregation of the Holy Office, 147, "Does the indulgence to be gained at the hour of death pertain, even as a condition, that the dying person patiently accept death as the punishment for sin from the hand of the Lord?" The Most Eminent Cardinals, General Inquisitors, on Thursday, April 12, 1916, responded: "The prescribed practices, as found in the *Raccolta di orazioni, etc.*, approved by the Holy Congregation of Indulgences on July 23, 1898, and published the same year, page 54, number 36, should be observed." And on Friday, April 13, 1916, the Most Reverend and Most Venerable Pope Benedict XV, in an audience granted to the Reverend Father, Assessor of the Holy Office, having heard the solution to the doubt approved by the Most Eminent Fathers, approved and confirmed it. Reverend Cardinal Merry del Val, Secretary. L. "S. D. Pasqualigo, O. P., General Commissary of the Holy Office."

SACRED CONGREGATION CONSISTORIAL, I. DECREE CONCERNING CERTAIN ASSEMBLIES IN THE UNITED STATES OF AMERICA AND IN THE CANADIAN REGION. In the past century, in the United States of America, the custom began of convening Catholic families for assemblies which were often prolonged for many hours of the night, accompanied by feasts and other entertainments. The reason and cause for this was, namely, that Catholics might become mutually acquainted and be united by closer bonds of love and charity, and also to gather the necessary funds for this and that pious work. Those who usually announced these assemblies and presided over them were often the directors of some pious work, and not infrequently, the pastors or parish priests themselves. However, the Ordinary of the places, although not doubting the upright intentions of those who promoted these assemblies, nevertheless, perceiving the unusual damages and dangers of this practice,

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considered it their duty to prohibit them, and therefore, in canon 290 of the Plenary Council of Baltimore, they decreed: "We also command that the priests prohibit that abuse, by which feasts are prepared..."

[*Latin ed. p. 148*]

Acts of the Apostolic See - Official Commentary 148: "With dances (balls) promoted for charitable works, [they] were entirely abolished." However, as often happens among men, those things which had been justly and wisely ordered from the beginning gradually began to fall into oblivion, and the use of dances again increased, indeed, even spreading to the neighboring region of the dominion of Canada. Aware of this, the Most Reverend Fathers of the Consistorial Congregation, having heard from several local Ordinaries, and after carefully examining the matter, judged that it was entirely necessary to adhere to the decrees of the Third Baltimore Council: and, with the approval of His Holiness Pope Benedict XV, they decreed that any and all priests, whether secular or regular, and other clerics, are absolutely prohibited from promoting or encouraging such dances, even if for the relief and support of pious works, or for any other pious purpose; and furthermore, all clerics are forbidden from participating in these dances, should they be promoted by laymen. The Supreme Pontiff ordered that this decree be made public and religiously observed by all, notwithstanding any contrary opinions. Given in Rome, from the offices of the Sacred Congregation of the Consistory, on the 31st of March, 1916.

† C. CARD. D'B L A I, Bishop of Sabina, Secretary.

L. S. † Thomas Boggiani, Archbishop of Edessa, Assessor.

DECLARATION REGARDING THE USE OF CLERICAL GARMENTS IN THE CANADIAN REGION:

From the Plenary Council of Quebec, two clerical garments have been recognized: one is the cassock, which is proper to clerics, and which, by common law, is to be used exclusively in sacred functions; the other is a shorter garment, which, if of black color, extends to the knees, and when worn with a Roman collar, has been admitted by the Fathers of Quebec for civil use, and with which clerics are commonly recognized in these places. It was also added that the use of these garments should conform to local custom.

[*Latin ed. p. 149*]

The Sacred Congregation Consistorialis, 149. Already, certain doubts and disagreements have arisen concerning this second decree; therefore, it is necessary to consider certain things that will contribute to a correct understanding of the law and to the preservation of peace. The Sacred Council of Trent decreed concerning ecclesiastical vestments, specifically for civil use: "Although habit does not make a monk, it is nevertheless

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necessary that clerics always wear vestments appropriate to their Order, so that through the decency of external habit, the inner honesty of morals may be demonstrated; but so great has the audacity and contempt for religion become among some, that they publicly wear lay clothing, placing one foot in the sacred, and the other in the profane; therefore, all ecclesiastical persons, whatever their exemption, who have either been engaged in sacred duties, or have obtained ecclesiastical dignities, offices, or benefices of any kind, if, after having been warned by their bishop, even through a public edict, they do not wear the honest clerical habit, which is appropriate to their Order and dignity, and according to the bishop's ordinance and mandate, shall be subject to suspension from the Orders, and from office and benefice, and from the fruits, revenues, and emoluments of such benefices; and also, if, after having been corrected once, they again offend in this matter, they may be coerced, and must be, even by deprivation of such offices and benefices, according to the Constitution of Clement V, promulgated in the Council of Vienne, which begins, 'Since, by innovating and expanding...'

1. Therefore, it is the proper and inherent right of the Ordinary, within the limits established by the Sacred Council of Trent, to determine the manner and form of clerical attire for each diocese. The Fathers of Quebec have wisely exercised this right, having approved and established two vestments throughout the Canadian dominion. The second decree of the Council concerning the use of one or the other vestment, that is, the custom that must be observed as is currently practiced in a place, as everyone understands, is not, nor can it be, absolute and perpetual, but is of a nature that is conditioned and temporary. For customs are subject to change with the passage of time and with new additions. Consequently, it is fitting that even vestments, whatever they may be, should adapt to new customs and conform to them, provided that they are always ecclesiastical. It cannot be supposed that the Council intended, in this matter, which is of itself of lesser importance and changeable, to take away or restrict the inherent right of the Ordinaries: for that would not have been prudent, nor wise.

1. Council of Trent, Session XIV, chapter 6, concerning Reforms.

[*Latin ed. p. 150*]

150 Acta Apostolicae Sedis - Official Commentary. After these considerations, the Holy Congregation, adhering to the letters already given on May 5, 1914, decided as follows:

1. The practice currently in use regarding clerical vestments in the diocese should not be changed without reason; nevertheless, each Ordinary should have the freedom to change that practice, provided that it is done with the vote of the chapter or of the diocesan consultors, if new times and circumstances suggest it, rendering account only to God and to the Apostolic See.

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2. A cleric migrating from his own diocese to another may retain the vestment of his own diocese there, even if it is different from that prescribed in the place, provided that it is one of the two approved by the Fathers of Quebec. This applies as long as he does not establish his domicile or quasi-domicile there.

3. Just as it is permissible for foreigners to follow the customs of the place in matters of fasting and abstinence, and in other similar matters, so too, it is permissible for every cleric to conform to the customs of the place to which he migrates, without being reprehended or punished for it by his Ordinary.

However, the Most Holy Lord Pope Benedict XV approved and ratified the resolution of the Most Eminent Fathers, and ordered that it be made public, so that it may be duly observed by all to whom it applies, notwithstanding any contrary provisions.

Given in Rome, from the offices of the Sacred Congregation Consistorial, on March 31, 1916.

C. CARD. DE L A I, Archbishop of Sabina, Secretary.

L. © S. fThomas Boggiani, Archbishop of Edessen, Assessor.

III. APPOINTMENTS OF ECCLESIASTICS. By successive decrees of the Sacred Congregation Consistorial, the Most Holy Lord Pope Benedict XV has provided for the following churches, namely:

March 28, 1916. — He appointed the Reverend Nicholas Rotoli as Prefect of the cathedral churches of Aeserni and Venafrana.

April 14. — He appointed the Reverend Calogerum Licata as Prefect of the cathedral churches of Calvensis and Teano.

April 27. — He appointed the Reverend Charles Reth, domestic prelate of the Holy See, canon of the cathedral church of Augusta Vindelicorum, as titular bishop of Lete, and appointed him as auxiliary to the Most Reverend Bishop of Augusta.

[*Latin ed. p. 151*]

8. Consistorial Congregation, April 27, 1916. — To the titular Bishop of the Church of Echinus, Reverend Father Edward Gimbèrt, ecclesiastical governor in the city of Valparaiso, in the Chilean territory. April 28. — To the Cathedral Church of Guayaquil, Reverend Father Andrew Machado, of the Society of Jesus, formerly Bishop of Bolivia. April 29. — To the Metropolitan Church of Olinda, Reverend Father Sebastian Lerne da Silveira Cintra, formerly titular Bishop of Orthosia. May 1. — To the Cathedral Church of the Amazon, Reverend Father John Irenaeus Joffily, formerly titular Bishop of Sufetula.

SACRED CONGREGATION FOR THE DISCIPLINE OF THE SACRAMENTS AND CANONICAL ERECTION OF MARRIAGES. Case Presented. — A woman, P. N., contracted marriage on July 9, 1879, with T. R.

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Great harmony prevailed between the spouses, who, after having resided in two places within a certain extensive region of America, moved to W. In that same region, the husband, T. R., was employed in iron mines, working as a blacksmith. In the year 1890, the woman, who had requested to visit her parents in the town of M., received several letters from her husband, in which he also advised her to remain there for some time, until their children were ready to receive the Sacrament of Holy Communion for the first time; for the place, W., where they resided, lacked a church. In the last letter, the husband informed his wife that he himself would soon be moving to the place of R., in order to visit his relatives; however, he never arrived in that place, according to the same witnesses, his relatives. Indeed, from that time (1890) onward, neither the witnesses nor the wife heard anything about the husband, although considerable efforts were made to inquire about him. When a new opportunity for marriage presented itself to the woman, who had now lost hope of her husband's survival, she presented a petition to the Ordinary, requesting permission to enter into a second marriage. The Bishop presented this case to this Sacred Congregation, which responded to him as follows: "The Ordinary should not hesitate to proceed according to the norms of the Instruction of the Sacred Office..."

[*Latin ed. p. 152*]

In the Acts of the Apostolic See - Official Commentary, concerning the matter of marriage, year 1868. However, after the investigations were completed, and the Ordinary hesitated to render a judgment, the records of the process were sent to this Holy Congregation. Arguments. - In the case presented, direct proofs are certainly lacking, since no one appeared who could testify, either as a witness or with ocular or auricular testimony, regarding the death of the man. However, there are circumstances and adjuncts that, when considered together, present the greatest probability, or moral certainty, of his presumed death. And 1) he disappeared in the year 1890, that is, more than twenty-five years ago, and nothing has been learned about him, even though his wife, relatives, and the Mining Company of Ferneres, to which he was devoted as a craftsman, have left no stone unturned in their efforts to find him. 2) It cannot reasonably be presumed that the man wished to abandon his family. For he constantly showed affection for his wife, children, and parents. "We lived happily in our marriage," testified the woman in the ecclesiastical process, "under oath." "God has given us three children, whom my husband loved very much." Undeniable signs of this affection are found in the letters he wrote to his wife, in the last of which he announced his imminent journey to the place R. to visit his parents. Indeed, the aforementioned man – as witnesses testify – never arrived at the aforementioned place R.; nor has anything been heard of him since. Furthermore, the fact that the man, who was not wealthy, left his

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home in the place VV. furnished with belongings, without taking anything with him, is highly relevant to exclude the hypothesis of abandonment of his family. This clearly demonstrates his intention to return to his wife and children. 3) Moreover, one must consider the dangers that existed in those regions of the United States to which the man was traveling. From the records of the process, it appears that, in order to reach the place R., where the man's parents resided, he had to cross a large lake. Therefore, it is not surprising that the aforementioned ironworker, affected by some infirmity, addicted to wine and other liquors, as witnesses report, may have perished during the journey due to some misfortune. 4) Nor were there lacking, in those regions, both private and public investigations to find him, which achieved no result. Furthermore, in the prison records, his name and surname were sought, but to no avail. Therefore, 5) a common belief arose in those places that the ironworker had died due to some misfortune, leaving nothing to his family.

[*Latin ed. p. 153*]

153 The Holy Congregation for the Discipline of the Sacraments, as far as it has been able to ascertain, and indeed, from the documents presented, no other cause can reasonably be assigned for such a prolonged absence. 6) The Reverend Ordinary: having forwarded the acts of the process, and again giving testimony regarding the honesty and veracity of the woman, expresses his favorable opinion concerning the presumed death of the man. The Eminent and Reverend Fathers of this Holy Congregation, in a general meeting held on the 25th of February last past, after mature deliberation, regarding the question: Whether permission may be granted to the petitioner, P. N., to enter into another marriage in this case, they decided to respond: affirmatively. Aloysius Capotosti, Episcopal Vicar, Secretary.

II. REGULARITY: From this Holy Congregation for the Discipline of the Sacraments, concerning how the Ordinaries of places ought to act: 1) if any clerics, initiated into the Orders of Holy Orders, or of the presbyterate, or of the diaconate, or of the subdiaconate, should, during the present war, contract an irregularity arising from a defect of the body, and should request that they be dispensed from this irregularity in order to exercise the Orders they have received, or even to receive higher Orders; 2) if any who have not yet been initiated into higher Orders, but during the present war, should likewise contract an irregularity arising from a defect of the body, and should request that they be dispensed from this irregularity in order to receive Holy Orders. This Holy Congregation, after mature deliberation, and having made a report to His Most Holy Lordship, Pope Benedict XV, responded: To I: In each case, recourse should be made. To II: It is not advisable to promote [such cases]. Given at Rome, from the offices of this Holy Congregation, on the 3rd of April, 1916. PHILIPPUS CARD. GIUSTINI, Prefect. Aloysius Capotosti, Episcopal Vicar, Secretary. ACTA, Vol. VIII, n.

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5. — 5-5-1916. 11

[*Latin ed. p. 154*]

154 Acta Apostolicae Sedis - Official Commentary

SACRED CONGREGATION FOR RITES

TURIN.

DECREE OF BEATIFICATION OF GIOTTI, FOUNDRESS, AND CANONIZATION OF THE SISTERS OF JESUS, SERVANTS OF GOD, ALOISIA BORGIOTTI.

In the city of Turin, and in the parish of the Metropolitan Church of St. John, on the 16th of February, in the year 1802, Aloisia Borgiotti, a Servant of God, was born of legitimate parents, Augustine and Clara Fiandri. Within the walls of her home, she learned the first principles of the Christian Faith, especially from her mother, who was struck by the particular feelings of compassion in the little girl for the Passion of Our Lord. What had happened to other nuns in times of great upheaval also befell the barefoot nuns of the Blessed Virgin Mary of Mount Carmel, who, having been driven from their homes and stripped of their possessions, sought refuge in Turin. There, they established a school for select girls, where they taught knowledge and religion, and also engaged in female crafts; and her parents wished to include their daughter, Aloisia, among the students. Under this sound discipline, the girl showed many fruits and promised even greater ones. It is said that she frequently and devoutly recalled the Passion of Christ and the sorrows of the Virgin Mary, especially in the practice of the Way of the Cross, which the girls and teachers performed every Friday. When the nuns were able to return to their former homes, and the Servant of God no longer enjoyed the school and the accustomed domestic life, but was absorbed in the education of brothers and sisters, and in the administration of the family, she showed herself to be somewhat afflicted by troubles and anxieties. However, with the help of divine grace, which she obtained through prayers, penances, and tears, she was soon freed and returned to her former fervor, striving with renewed vigor for higher things. In the year 1834, she gave her name to the Pious Sodality, commonly called the "Delie Umiliate" (Humble Servants), and she remained a diligent and prudent member and sub-prioress until her death. The purpose of the Institute was, at first, to visit the poor in the hospital of St. John and to assist them with ministry and alms; later, after the visits to the hospital were discontinued, to care for the sick at home with words and deeds, and to provide dowries to needy girls each year. She also joined other sodalities

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and provided useful service.

[*Latin ed. p. 155*]

The Holy Congregation of Rites, number 155, Aloisia, that is, she who was called Aloisia, and who was known as "of the Most Holy Sacrament," also "of the Sorrowful Mother," "of the Sacred Vestments," and "of the Ladies of Mercy," to whom the Society had acquired a house in the parish of Saint Charles at their own expense. But God called His handmaid to an Institute of greater importance, which first bore the name of "of the Passion," and later "of Jesus of Nazareth." In Augsburg, Marcus Antonius Durando, a priest of the Congregation of the Missions, founded it in 1865 for the assistance and care of the sick. In the same year, at the end of the year, Aloisia was appointed as the mistress and superior of the Institute. She fulfilled this office for eight years, until her death, always striving to be a model for herself and her sisters, following Jesus of Nazareth and His unspeakable charity, especially towards the sick, frequently and devoutly saying: "Praise be to Jesus Christ!" After the handmaid of God reached her seventieth year, she was often weakened by illness, and also by hardships, and was brought to the brink of death. Then, as the illness worsened, strengthened by the sacraments of the Church and refreshed by the blessing of the Supreme Pontiff, while urging the sisters of the Institute, who were weeping around her bed, to live a holy life, and embracing them with maternal affection, with her eyes fixed on the images of Jesus Crucified and Mary Sorrowful, she peacefully departed this life on February 23, 1873. Soon after the solemn funeral rites were celebrated, her remains were placed in the common cemetery; which were later, in 1905, transferred to the Church of the Visitation, where they still rest near the altar of the Holy Cross. Meanwhile, the fame of holiness that Aloisia had acquired during her life, after her death, not only among the priests of the Missions and the Sisters of Nazareth, but also within and outside the city and the Archdiocese of Turin, grew more and more, so that an ordinary informative process was instituted in the ecclesiastical court of Turin. After this was completed and sent to Rome to the Congregation of Sacred Rites, and after the writings concerning the virtues of the Servant of God were examined, and nothing stood in the way of proceeding further, at the urgent request of the Reverend Mr. Raphael Ricciardelli, the general procurator of the Congregation of the Missions and promoter of the cause, and with the attention of certain petitions from some Eminent Cardinals, several Roman Sacred Prelates, as well as the superiors general of Orders or Congregations, and other illustrious men and women, especially the Prelate and the Sisters of the Institute of Jesus of Nazareth, moved by love and esteem for the best mother and foundress, the following Cardinal, Anthony Vico, in place and instead of the Eminent and Reverend Mr. Cardinal Sebastian Martinelli, Prefect of the Sacred Congregation and promoter of the same cause, signed

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the day indicated in the ordinary meetings of the Sacred Congregation of Rites, to...

[*Latin ed. p. 156*]

156 Acta Apostolicae Sedis - Official Commentary, the Vatican, proposed the following question for discussion: Whether the Commission for the introduction of the Cause should be signed in this case and for the purpose in question? And the Most Reverend and Illustrious Fathers entrusted with the preservation of sacred rites, after hearing the report of the undersigned Cardinal who proposed the matter, and after hearing the voice and written statement of the Reverend Father D. Angelo Mariani, Promoter of the Holy Office, having carefully considered all matters, decided to write: The Commission for the introduction of the Cause should be signed, if it pleases the Most Holy [Father]. On April 11, 1916. Subsequently, these matters were presented to the Most Holy Lord, our Pope Benedict XV, by the undersigned Cardinal, Pro-Prefect of the Congregation for Sacred Rites, in a report, and His Holiness, having approved the Decree of the same Sacred Congregation, deigned to sign with his own hand the Commission for the introduction of the Cause of the Servant of God, Aloisia Borgiotti, Foundress of the Institute of the Sisters of the Nativity, on the 12th day of the same month and year.

A. CARD. E P. PORTUEN. ET S. R. U. F., S. B. C. Pro-Prefect, h. © S. Alexander Verde, Secretary.

SACRED CONGREGATION FOR SEMINARIES AND FOR UNIVERSITY STUDIES.

QUESTION REGARDING THE *MOTU PROPRIO* "DOCTOR ANGELICUS" AND REGARDING THE TWENTY-FOUR PHILOSOPHICAL THESES RECOGNIZED AND APPROVED BY THE SACRED CONGREGATION FOR STUDIES.

Since the Supreme Pontiff, Pius X, of blessed memory, by the *Motu Proprio* "Doctor Angelicus," published on June 29, 1914, prescribed that in Universities, large Lyceums, Colleges, Seminaries, and Institutes which have, by Apostolic Indult, the power to confer academic degrees and the laurea in Sacred Theology, the *Summa Theologica* of Saint Thomas should be taken as the text, and since the Sacred Congregation for Studies has recognized and approved twenty-four philosophical theses...

[*Latin ed. p. 157*]

The Holy Congregation for Seminaries and for Universities of Studies declared on the twenty-ninth of July of that same year that the *Summa* of Saint Thomas contained German doctrines. The following questions were presented to this Holy Congregation:

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I. Whether the *Summa Theologica* of Saint Thomas should be used in the schools mentioned above, either as a textbook, or as a text for lectures, at least with regard to the scholastic part?

II. Whether all twenty-four philosophical theses, approved by the Sacred Congregation of Studies, truly contain the doctrines of Saint Thomas, and, if so, whether they ought to be imposed upon Catholic schools?

Regarding these questions, the Eminent and Reverend Cardinals of this Holy Congregation, in a plenary session held on the twenty-second and twenty-fourth days of the month of February of this year, considered it best to respond as follows:

To I. The *Summa Theologica* of Saint Thomas should be used as a text for lectures with regard to the scholastic part of the questions; that is to say, so that, together with some text which indicates the logical order of the questions and contains the positive statements, the *Summa Theologica* should be kept at hand and explained with regard to the scholastic part.

To II. All those twenty-four philosophical theses express the doctrines of Saint Thomas, and they are presented as safe and guiding norms.

On the twenty-fifth of the same month and year, the Most Holy Pope Benedict XV, in an audience granted to the undersigned Secretary, ratified and confirmed the opinion of the Fathers with his supreme authority.

Given at Rome, on the seventh day of March, on the very feast of Saint Thomas, in the year 1916.

CAIETANUM CARD. BISLETI, Prefect.

f Iacobus Sinibaldi, E. p. Tiberien., Secretary.

[*Latin ed. p. 158*]

158 Acta Apostolicae Sedis - Commentary. OFFICIAL ACTS OF THE SACRED ROMAN ROTA OF PARIS. NULLITY OF MARRIAGE (CHARRIER-GODET). Under the blessed reign of Pope Benedict XV, in the second year of his pontificate, on the 4th of November, 1915, the Most Reverend Fathers, William Sebastiani, Dean, and Seraphinus Many and John Prior, Auditors from Tournon, in the case of Paris, concerning the nullity of marriage between Edward Charrier, represented by his legitimate procurator, the Reverend Jeremiah Rossi, advocate, and Bertha Godet, who intervened in the case as Defender of the Bond ex officio, pronounced the following definitive sentence. Edward Charrier, being seventeen years of age, went to Paris to seek some means of earning a living. His aunt, Maria Godet, first placed the young man with a certain spice merchant, and then received him into her home, so that she might be free from pregnancy and become a teacher in public schools. However, fate dealt a cruel blow to Edward; for his aunt's daughter, named Bertha, having conceived a love for her nephew, greatly desired to be joined to him in marriage. Edward, although initially resisting the proposed marriage, later yielded to his cousin's wishes, and on the 2nd

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of July, 1892, the marriage was celebrated in the parish church of "Aubervilliers." The spouses lived together for fifteen years and had four children. However, there were no want of disagreements and quarrels; and on several occasions, the conjugal life was, for a time, interrupted. Finally, with a separation between the spouses, agreed upon mutually and definitively, the husband went to the Parisian Tribunal on the 30th of May, 1910, to have his marriage with Bertha declared null, both because of the woman's infidelity, and because of the fear instilled in him by his cousins. However, when the plaintiff subsequently abandoned the first argument for nullity, the Parisian judges, considering only the second argument, declared that it did not sufficiently establish the nullity of the marriage in this case. From this decision, Edward appealed to the Sacred Roman Rota, and today the case is again presented under the usual formula of inquiry: Does nullity of marriage exist in this case? Regarding the law, the Fathers noted that Alexander III, in chapter 1, "De sponsalibus et matrimoniis," decreed that the contracting parties must be free.

[*Latin ed. p. 159*]

The Roman Rota, in case number 159, considers any form of coercion and fear; however, it must be understood that this refers to a grave fear, at least in relation to the one who experiences the fear. A slight fear is easily overcome, and if it were to invalidate a marriage, it would bring about excessive disturbances in both the civil and religious spheres. If, however, one were to ask what constitutes a truly grave fear, Alexander III, in the final chapter of the same title, and Innocent III, in chapter 4, "On matters done by force or fear," respond that it is that which causes a man to fall away from his steadfastness. Therefore, a grave fear must be instilled in such a way that, under its influence, even the mind of a prudent and steadfast man trembles, and is not fully in control of its own judgment. According to Sánchez, this occurs if five conditions are met, although Em. Gasparri reduces them to two: "namely, that the impending or future evil is grave for the person who fears, and that this person believes that this evil truly threatens him" (De Matrim., vol. II, no. 940, 3rd edition). Furthermore, fear is not presumed, but must be proven by the one alleging it, and it is considered sufficiently proven when the testimonies of witnesses, supporting evidence, conjectures, and presumptions can, in the mind of the judge, generate a prudent and morally certain conviction of its existence. "For who here and now is just in fear... sufficient to invalidate an act... and the quality and force of the proof are left to the judgment and discretion" (Reinffenstuel, Book I, chapter XL, no. 79). Regarding the facts: I. Edward Charrier, in his deposition and in his response to the ninth question, affirms that he contracted marriage under the influence of fear. This is also asserted by the witnesses. Thus, Mathilde Bisiaux: "I believe that the Godet family absolutely surrounded the young man, and the pressure exerted on

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him was certainly of a nature to force him into marriage." René Meynier: "Everything I have been told gives me the conviction that Mr. Charrier, being very young, could indeed have been the object of pressure that led him to a marriage to which he did not at all want to enter." Joanna Le Merdy: "I know of nothing that can establish coercion, although I have serious reasons to suspect it, based on everything I have learned from Mr. Charrier." Hyacinth Le Merdy: "Based on everything I have heard and seen myself since 1895, I remain convinced that the Godet family surrounded Mr. Charrier... in order to lead him to marry Miss Godet." Mary Berthelot: "Moreover, in the neighborhood, people did not hesitate to say that Mr. Charrier was forced to marry Miss Godet." Finally, Josephine Meynier: "My impression is that the Godet family, and especially the grandmother, surrounded Mr. Charrier in order to lead him to marriage." The aforementioned testimonies, the Reverend Fathers have considered.

[*Latin ed. p. 160*]

160 The Acts of the Apostolic See – the official commentary – are too general, and simply refer to the opinion of the witnesses, or what they themselves heard, which is not sufficient to prove the alleged coercion, especially when it is noted that other depositions can be found in the records that are contrary, and which deserve greater credence, as they are made by those who knew the betrothed for many years before the marriage and who were present at the wedding ceremony. Thus, Sophia Moulin: "Therefore, I cannot imagine that 'pressure' was exerted on the young man to bring about this marriage." And Amatus Petrus Vincent: "There were no threats, no violence, nor anything similar on the part of the Godet family." After omitting the others, Aloysia Gauben: "The Godet family did not surround the young man in order to induce him to marry Miss Godet... One must not know Mr. Charrier to dare to say that he could have been the object of threats or violence. Is it possible? He was rather a man to be beaten than one who would allow himself to be beaten." Thus, the alleged coercion is asserted, but not proven. II. The circumstances surrounding the marriage exclude, or at the very least, cast doubt on, the alleged coercion. Indeed, a) before the marriage, after all the witnesses were legally questioned, one is Methildis Bisiaux, who states: "The young woman loved Mr. Charrier very much, but the young man did not reciprocate her feelings," while others testify to the contrary. The bride herself states: "We gave each other the usual signs of affection, but later with less eagerness than at the beginning." And the bride's mother states: "Shortly after, he began to tell me that he wished to marry my daughter; I made all possible observations to him. Nevertheless, it was necessary to yield, since my daughter, on her part, desired it. The two young people therefore exchanged their promises, and I presented Mr. Charrier everywhere as my future son-in-law. This was several months before the marriage. And during that time, they did not

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cease to wish each other well." Furthermore, the mutual affection and love between Eduardum and Bertha are attested to by many witnesses, of whom we cite only two. Sophia Moulin states: "Every time I saw the betrothed before their marriage, they seemed jealous of each other, both of them." And Aloisia Fruk: "The two future spouses were very fond of each other, and rejoiced in being with each other... Mr. Charrier was very proud to marry a teacher, and Miss Godet, on her part, was also very happy." From these things, it is clear that Eduardum, at the time preceding the marriage, gave no sign that he indicated coercion or reluctance to enter into marriage with Bertha. b) On the day of the marriage, everything was carried out properly and regularly before the priest and before the civil magistrate: "He (the bride's mother testifies) behaved that day as a content and joyful husband.

[*Latin ed. p. 161*]

The Roman Rota, number 161: "He danced and sang with enthusiasm. He never gave me reason to believe that he felt compelled or deprived of his freedom." Sophia Moulin testified similarly: "The marriage was celebrated in the church of Aubervilliers... I was present... The two spouses appeared very happy, and they were certainly very pleased to pronounce the sacramental 'yes'." Aloisia Fmk, Amatus P. Vincent, and M. Glotildis Vincent also testified, the latter saying: "The marriage was celebrated in Aubervilliers. I was present... The two newlyweds were very happy. When we arrived at the restaurant, Mr. Charrier turned to me and, referring to the services I had rendered to him by helping with his trousseau, he said to me: 'Mrs. Vincent, it is thanks to you that we are married today; without you, we would not be here, and I will never forget it.'"

However, the words of the father of the plaintiff, Eduard, cannot be taken as contradicting this: "On Tuesday morning, the day of the wedding, my son did not appear. He had locked himself in his room, and it was only after an hour and a half of waiting that we decided to proceed... At the church, I noticed very well that my son had great difficulty in murmuring a 'yes' that no one heard."

Furthermore, the testimony that the witness gives in the second place is contrary to the testimony of other witnesses who were present at the religious ceremony. Moreover, the fact that Eduard delayed on the very morning of the wedding, to the point that the guests invited to the wedding had to wait for him for an hour and a half, can be attributed either to Eduard's very changeable temperament, or to his lightheartedness, especially since he knew that he was entering into marriage at a very young age, or finally, to his care and attention to detail, in order to present himself in a more elegant manner at the wedding ceremony, as M. Glotildis Vincent recounts: "My son was a groomsman... He finally went up to his room, where he found him, a towel on his back, being styled by the maid. 'Quickly,' said

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my son, 'everyone is waiting for you.' 'Ah,' replied Mr. Charrier, 'but I want to look smart on my wedding day.'"

c) After the marriage was celebrated, the newlyweds seemed to be doing well, as the father of the plaintiff recounts: "At the beginning of the marriage, I thought that everything was going well. They came several times together to Venie. She often became upset, but he said nothing; he would go out the door, and everything would be over." However, the common life, although interrupted twice or three times over a few months, lasted for fifteen years, and four children were born from it. The final separation was not initiated by the husband, but by the wife; for Eduard says: "My wife took advantage of my absence to betray me in a hateful way, and to leave me permanently."

[*Latin ed. p. 162*]

162 Acta Apostolicae Sedis - Official Commentary III. Furthermore, even admitting that Edward did not entirely freely enter into the marriage, the Fathers judged that there was no grave fear in this case. And certainly, the question cannot be raised of reverential fear. For since this fear is an estimation of an evil that we fear from those over whom we are, Edward was in no way and by no title under the power of his female relatives, in whose house he resided. Indeed, Edward's father, Eugenius Charrier, had requested his cousin, the lady Godet, to watch over his son; for he states in his response to question 12: "During one of my journeys to Paris, I indeed recommended to my cousin, the mother of Miss Godet, that she watch over my son a little. I had confidence in her." But, as is evident, this request for moderate vigilance was not, nor could it be, a delegation of paternal authority or the establishment of a guardian. Therefore, the matter concerns ordinary fear. Examining the introductory document of the judgment and considering the testimonies of the parties, the cause of fear, "from a moral point of view," was the continuous pressure exerted by the mother and grandmother; "from a physical point of view," there were threats to Bertha, which caused her fear, both for herself and for Edward, if the marriage did not take place. However, with regard to these pressures, neither Bertha's mother nor her grandmother ever made threats to Edward, nor did they ever use force against him; indeed, it is not established from the records that they compelled Edward to marry through reprimands, arguments, or words spoken in anger, which the plaintiff himself admits in his testimony to question 11: "The mother and grandmother did not make threats to me, but they manipulated me by appealing to my feelings." Therefore, we are dealing with manipulations, schemes, and persuasions, which greatly disturbed the mind and are easily dismissed. The witness, Hyacinthus Le Merdy, in his report of January 3, 1911, to the official of Paris, speaks of a different kind of fear instilled in Edward by the bride's mother: "Mrs. Godet, some time before the marriage, locked her daughter with Mr.

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Charrier in the same room, and then threatened him with denunciation if he refused the proposed union." However, it must first be noted that the witness Le Merdy is not an eyewitness, but is reporting what he heard from a certain official of the municipality, whose name he does not remember; furthermore, the event is also reported by Methildis Bisiaux and by Edward himself, but they remain silent about the threats. Edward recounts the matter as follows: "Once, even, when, one evening, I was lying in my folding bed, in the middle of the night, she (Bertha) had a seizure, and the parents, not knowing what to do, carried her onto my bed, where she was left all night. Restrained by a sense of honor, I did not touch my cousin; but this situation put me in a very painful state."

[*Latin ed. p. 163*]

163 The Roman Rota, therefore, was not concerned with threats made against Bertha, but with avoiding scandal. And scandal could have been avoided, either through marriage or through the separation of the betrothed, as was decided in the Prefecture of the province: "The Prefecture of the Seine (according to Madame Bisiaux) based on the report of the Inspector of Education, Mr. Bertrand, who is now deceased, summoned Madame Godet and ordered her to either hasten the celebration of the marriage or to separate the two young people." Therefore, if Edward chose marriage rather than separation to avoid scandal, this should be attributed not to threats made against Bertha, but to the will of Edward himself. Regarding the threats, Edward states that Bertha threatened him several times, saying that she would kill herself unless he consented to the marriage; and that this would also lead to the death of his mother and grandmother. "Is this (he says) what I would want, to have three deaths on my conscience? The girl will kill herself, if that is the case, and her mother and grandmother will not resist." In fact, they had an incredible love for this only daughter. Furthermore, Edward's father states: "Miss Godet herself told me that she would poison herself if she did not marry my son; and I am certain that she would have done so. This threat was especially used to pressure the marriage." But that Bertha threatened to kill herself and, as a result, cause the death of her mother and grandmother, could not constitute a reason for Edward, or at least, the fear was not sufficient to dissolve the marriage. It is indeed sufficient to invalidate a marriage if the evil feared threatens the person who fears it, or those related to them; but Bertha and Edward were cousins; Bertha was not very loved by Edward due to her physical and mental infirmities, and Edward confesses: "I have always felt repulsion for this woman (Bertha)." Therefore, she could not have said these things. As for the death of his mother and grandmother, besides the fact that it was entirely hypothetical, it could not constitute the object of threats, but was rather a consequence of Bertha's own malice. Bertha also threatened Edward with death, as Edward recounts: "I have

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already said that Miss Godet wanted to poison me, and to poison herself. This was not a vain threat: for once she absorbed a bottle of laudanum... often she was caught preparing laudanum or other drugs in the glass, which was intended for me." But the following should be noted regarding these threats: 1. From the records, it is not legally proven that these threats were actually made, or at least, that they were serious; for besides the accuser, only three witnesses report these threats: but Madame Bisiaux and Joanna Le Merdy do not know of such threats except from hearsay from Edward himself, so their testimony is reduced to the deposition of Edward alone. As for the third witness, namely Joseph...

[*Latin ed. p. 164*]

Acta Apostolicae Sedis - Official Commentary 164. Meynier, did not know of these threats until the year 1907, and indeed, from what Mary Godet heard; therefore, all the evidence is reduced to the statements of Edward and the bride's mother; and it should be noted that she completely remained silent about these threats in her deposition. Even if it is admitted that Bertha brought up these threats, it does not necessarily follow that Edward experienced great fear; for, despite these things, he did not hesitate to declare that he would never enter into marriage: "Despite everything, one day, I declared that I would not marry."

3. Finally, Edward could have avoided these threats by fleeing. Indeed, although he himself admits: "I was being separated more and more from external communications; I was being watched, guarded, almost sequestered," nevertheless, the custody was not so strict that he could not have fled to his father or to other relatives residing in Paris. And indeed, the records show that he was seen several times in a nearby house, and once he attempted to flee, but this was not a definitive escape, because he returned to the Godet house. From all of this, it is clear that Edward, although perhaps with some reluctance, wanted to enter into marriage with Bertha, perhaps because he knew that many advantages would arise for him from this marriage, as testified by Edward's father, Eugenius Charrier: "At the bottom, my son was reluctant to this marriage. However, he pointed out to me that the situation of his cousin, the teacher, was advantageous."

After carefully and diligently considering all of these things, We, the undersigned Auditors of Tournon, sitting for the Tribunal and having only God before our eyes, invoking the name of Christ, We decide, declare, and definitively pronounce that there is no basis for a declaration of nullity of the marriage in this case, and to the proposed question, We answer: Negatively.

Thus We pronounce, ordering the Ordinary of the place and the ministers of the Tribunal, to whom it pertains, to enforce this Our definitive judgment, and to proceed against those who resist, according to the norms

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of the sacred canons, and especially chapter 3, session 25, of the Council of Trent, using the executive and coercive means that are more effective and appropriate for the circumstances.

Rome, in the seat of the Tribunal of the Holy Roman Rota, on the 4th of November, 1915.

Guilelmus Sebastiani, Dean, Presiding.

Seraphinus Many.

Ioannes Prior.

L. & S.

From the Chancery, 17th of November, 1915.

Sac. T. Tani, Notary.

[*Latin ed. p. 165*]

Diary, Roman Curia.

SECRETARY OF STATE.

With the tickets of the Secretary of State, the Holy Father has deigned to appoint:

April 5, 1916. — The Most Reverend Cardinal Anthony Vico, Protector of the Congregation of the Most Holy Redeemer, having its Mother House in Paris.

April 6. — The Most Reverend Cardinal Dominic Serafini, Protector of the American College of the United States.

April 7. — The Most Reverend Cardinal Giulio Tonti, Protector of the Religious Sisters Hermanas de San José, of Buenos Aires.

April 7. — The Most Reverend Cardinal Ludovico Billot, Protector of the Religious Sisters of the Presentation of Mary, of Viviers.

April 7. — The Most Reverend Cardinal Dominic Serafini, Protector of the Sisters of the Holy Cross of Jesus, of Mexico.

April 7. — The Most Reverend Cardinal Diomede Falconio, Protector of the Venerable Confraternity of the Devotees of Jesus at Calvary.

April 7. — The Most Reverend Cardinal Filippo Giustini, Protector of the Irish College of Rome.

April 15. — The Most Reverend Cardinal Dominic Serafini, Protector of the Scottish College.

May 2. — The Most Reverend Cardinal Filippo Giustini, Protector of the Archieconfraternity of the Most Holy Cross, erected in the church of Saint Marcellus in Rome.

— Monsignor Albert Vassallo di Torregrossa, titular Archbishop of Emesa, Apostolic Nuncio to the Republic of Strasbourg.

May 3. — The Most Reverend Cardinal Michele Lega, Protector of the

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Institute of the Daughters of the Most Holy Cross.

[*Latin ed. p. 166*]

166 Acta Apostolicae Sedis - Official Commentary. With Apostolic Briefs, the Holy Father has deigned to appoint:

To the Papal Throne: April 2, 1916. — Monsignor Anthony Adolfo Perez y Aguilar, Archbishop of San Salvatore.

Prothonotaries Apostolic, as if participating: January 31, 1916. — Monsignor Baldassarre Scherndl, of the diocese of Linz. February 19. — Monsignor Giuseppe Volovié, of the archdiocese of Zagreb. — Monsignor Emilio Strahinséak, of the same archdiocese. April 4. — Monsignor Francesco Marnos, of the archdiocese of Lyons. — Monsignor Giacinto Chassagnon, of the same archdiocese.

Domestic Prelates of His Holiness: February 17, 1916. — Monsignor Giuseppe Horváth, of the diocese of Rosnavia. — Monsignor Andrea Szeman, of the same diocese. February 22. — Monsignor Agostino Valihora, of the archdiocese of Kollotschau. April 6. — Monsignor Rocco Aurellana, of the archdiocese of San Salvatore. — Monsignor Pietro Trabattoni, of the diocese of Lodi. April 12. — Monsignor Guglielmo I. Walsh, of the diocese of Waterford and Lismore. April 13. — Monsignor Cornelio Fiavin, of the same diocese. — Monsignor Donato Forlani, of the diocese of Conversano. April 15. — Monsignor Michele Weldon, of the diocese of Peoria. — Monsignor Ermenegildo Pogliani, of the archdiocese of Milan.

HONORS. With Apostolic Briefs, the Holy Father has deigned to bestow the following honors:

The Grand Cross of the Order of Pius: April 15, 1916. — To the Most Noble Prince, Don Lewis Chigi.

The Commander of the Order of Saint Gregory the Great, civil class: April 4, 1916. — To the Most Noble Knight, Abele Waldmann, of the archdiocese of Lyons.

The Commander of the Order of Saint Sylvester the Pope: April 12, 1916. — To the Most Noble Anthony Ciaburri, of the diocese of Cerreto Sannita.

[*Latin ed. p. 167*]

Diarium Romanae Curiae 167. PREFECTURE OF THE HOLY PAPAL PALACES. APPOINTMENTS. By order of the Most Reverend Cardinal Prefect of the Holy Apostolic Palaces, the Holy Father has deigned to appoint: on March 30, 1916. – The Very Reverend Father Pellegrino M. Castellani, of the Order of the Servants of Mary, Confessor to the Pontifical Family.

HOUSEHOLD OF HIS HOLINESS. APPOINTMENTS. By order of His Excellency Monsignor Maggiordomo, the Holy Father has deigned to appoint: Extraordinary Secret Chamberlains to His Holiness: on November 13, 1914. – Monsignor Francesco Farkas, of the diocese of

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Sabaria. On November 18. – Monsignor Leopoldo degli Ivanisëvié, of the diocese of Spalato and Macarsca. – Monsignor Nicolò Batistié, of the same diocese. On January 30. – Monsignor Stefano Zemancsik, of the diocese of Szepes. On April 13. – Monsignor Francesco Bistanros, of the diocese of Hermopoli. On June 5. – Monsignor Giacomo Obweger, of the archdiocese of Salisburgo. – Monsignor Cristiano Perkmann, of the same archdiocese. On July 14. – Monsignor Edoardo Knopp, of the diocese of Könnigrätz. On February 19, 1916. – Monsignor Giovanni Marangó, of the diocese of Sira. On February 29. – Monsignor Francesco Wagner, of the diocese of Bressanone. – Monsignor Carlo Krader, of the diocese of Cinque Chiese. – Monsignor Andrea Sikorsky, of the diocese of Cassovia. – Monsignor Arnoldo Hoffmann, of the same diocese. – Monsignor Nicola Pfeiffer, of the same diocese. – Monsignor Francesco Berger, of the archdiocese of Vienna. On March 25. – Monsignor Vittore Mátéffy, of the diocese of Strigonia. – Monsignor Giovanni Drahos, of the same diocese. On March 28. – Monsignor Alessandro Parri, of the diocese of Fabriano. – Monsignor Giuseppe Santangeli, of the same diocese. On April 3. – Monsignor Alfonso Arrigoni, of the diocese of Sarsina. – Monsignor Emanuele Pharis, of the archdiocese of Conza. On April 18. – Monsignor Giuseppe Bellino, of the same archdiocese.

[*Latin ed. p. 168*]

168 Acta Apostolicae Sedis - Official Commentary: Honorary Chamberlains in peacock blue attire of His Holiness: November 13, 1914. — Monsignor Robert Schlamadinger, of the diocese of Sabaria. February 29, 1916. — Monsignor Theodore Gürtler, of the archdiocese of Vienne. — Monsignor Theodore Stief, of the same archdiocese. March 25. — Monsignor Anthony Milacek, of the diocese of Budweis. — Monsignor Philip Kohont, of the diocese of Linz. February 12. — Monsignor Joseph Alessi-Batu, of the diocese of Piazza Armerina. Honorary Chamberlains Extra Urbem of His Holiness: March 28, 1916. — Monsignor Nicholas Beri, of the diocese of Fabriano. Secret Chamberlains of Sword and Cape, supernumerary, of His Holiness: April 3, 1916. — Signor Luigi de' conti Zara, of Rome. Honorary Chaplains Extra Urbem of His Holiness: November 18, 1914. — Monsignor Andrea Matas, of the diocese of Spalato and Makarska. March 31. — Monsignor Vito Catamia, of the diocese of Conversano. Secret Honorary Chaplains of His Holiness: November 18, 1914. — Monsignor James Pircević, of the diocese of Spalato and Makarska. June 5, 1915. — Monsignor John Filzer, of the archdiocese of Salzburg. — Monsignor Rupert Rohrmoser, of the same archdiocese. February 19, 1916. — Monsignor Gabriel Privilenghios, of the diocese of Sira. February 29. — Monsignor Albert Jakab, of the diocese of Cinque Chiese. — Monsignor John Hannig, of the diocese of Sabaria. — Monsignor Julius Wehofsits, of the same diocese. NECROLOGY: April 28, 1916. — Monsignor Paul

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Mark Tei, Bishop of Pesaro. May 4. — The Most Reverend Cardinal Hector Ireneo Sévin, Archbishop of Lione.

[*Latin ed. p. 169*]

Year VIII - Vol. VIII, June 7, 1916, No. 6.

ACTA APOSOLICAE SEDIS, Official Commentary.

ACTA OF POPE BENEDICT XV, CONCERNING THE ERECTION OF A NEW DIOCESE.

BENEDICT, BISHOP OF PENEDO, SERVANT OF THE SERVANTS OF GOD,

TO THE EVERLASTING MEMORY OF THE CATHOLIC CHURCH.

The care of the Catholic Church, divinely entrusted to the Roman Pontiffs, demands that those things which contribute to the good and benefit of the Christian flock be diligently promoted by the Pontiffs, with the intervention of Apostolic authority.

Indeed, considering the vastness of the territory of the diocese of Alagöas in Brazil, and the multitude of the faithful who inhabit it, it has seemed to Us that one pastor may not be able to adequately provide for all their needs. Therefore, We have deemed it necessary, for the good and benefit of those faithful, to divide the aforementioned diocese of Alagöas and to establish another new one there.

Wherefore, with the assistance of the Apostolic Nuncio in the Brazilian Prefecture, and with the counsel of Our Venerable Brothers, the Cardinals of the Holy Roman Church, who preside over the Consistorial affairs, and also with the consent of those among whom there may be a particular interest or concern, We, exercising the fullness of Our Apostolic power, and also using the faculty reserved to the Roman Pontiff and the Holy See, by a sealed letter, dated the twenty-seventh day of the month of April, in the year of Our Lord one thousand nine hundred and ninety-two, freely divide the territory of the aforementioned diocese of Alagöas into two parts: the eastern part, in which is located the town of Maccio.

ACTA, vol. VIII, n. 6. - 7-6-916. 12

[*Latin ed. p. 170*]

170 Acta Apostolicae Sedis - Concerning the official record of the civil province, its head, and its prince, we reserve and assign to the ancient diocese of Alagöas; and we assign to a new and distinct diocese, to be called Penedo, the western part, where the city of Penedo is located, and we erect and establish it with the following conditions and limits. Firstly,

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the new diocese of Penedo shall have the same boundaries as the western part of the diocese of Alagöas previously had; and the dividing line, by which the diocese of Penedo is separated from that of Alagöas, shall be the eastern limits of the parishes commonly called Coruripe, Junqueiro, Zimoeiro, Palmeira, which belong to the new diocese, so that this new diocese of Penedo includes the following parishes: Penedo, Piassabussi, Coruripe, Junqueiro, Zimoeiro, Palmeira, Jertaösinhe, Sant'Anna de Panama, Paulo Affonso, and Brame, Pâo d'Assucar, Bello Monte, Traipú, S. Braz, Triumpho, Collegio. We establish the seat and the episcopal cathedral of the diocese of Penedo in the town of Penedo, together with all the rights and privileges with which other episcopal sees are lawfully endowed; and we elevate the parish church located in that city, dedicated to the Blessed Virgin Mary under the invocation of the Most Holy Rosary, to the status of a cathedral, preserving the pastoral care of souls therein as before; and we grant to the bishop and his successors in office all the privileges and rights with which other cathedral churches and their prelates are endowed by common law or legitimate custom, not, however, by a burdensome or special grant. Furthermore, we assign to the new bishop and his successors in office the house recently purchased, in which the episcopal curia will also be located. Moreover, we establish the diocese of Penedo as a suffragan diocese of the Metropolitan Church of Olinda, and we subject the bishop and his successors in office to the Metropolitan jurisdiction of the Archbishop of Olinda; nevertheless, We and the Apostolic See reserve to Ourselves the free power to determine a division or circumscription of this newly erected diocese, whenever it shall seem expedient in the Lord. And those things which are arranged and prescribed in the aforementioned apostolic letters, dated the twenty-seventh day of the month of April, in the year of Our Lord one thousand eight hundred and ninety-two, concerning the erection of new dioceses in the Brazilian Republic, and concerning the rights and privileges of new bishops, as well as the institution of a cathedral chapter or at least a college of consultors, the erection, governance, and administration of a diocesan seminary, the election of a capitular vicar or administrator in the vacancy of the see, concerning the rights and duties of the clergy and the faithful, the transmission of documents, and other matters of this kind, We command that they be religiously observed, according to the tenor of the sacred canons, and especially of the Council of Trent.

[*Latin ed. p. 171*]

Regarding the acts of Pope Benedict XV concerning the diocese of Penedo, furthermore, so that the pastors of this diocese may safeguard the dignity of their office and provide for the support of the clergy, and so that they may contribute to the expenses of the divine cult and other needs of the diocese, we assign and attribute perpetually to the endowment and sustenance of the new episcopal see the revenues of the diocesan

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patrimony, which have already been collected for this purpose, or which will be collected in the future, as well as the revenues of the ecclesiastical court, according to common law or legitimate custom. Moreover, we decree that from this diocese, at least two chosen young men shall be sent, in turn, to the Pontifical Latin-American College, located in this venerable city, under the watchful eye of the Roman Pontiffs, and that they shall be supported at the expense of the same diocese, according to what was most wisely decreed in the Plenary Council of Latin America, held in Rome in the year one thousand eight hundred and ninety-nine, so that those who have acquired knowledge of religion in the very center of truth may be able to communicate more usefully and abundantly with their fellow citizens. In order that provision may be made more stably both for the support of these clergy and for the endowment of the same Pontifical Latin-American College, we earnestly desire that the Penedo administration, as soon as possible, contribute as many assets as are required so that from their revenues, the two aforementioned students, or at least one, may be supported, and that these revenues, as soon as they are received, shall be perpetually assigned and attributed to the same Pontifical Latin-American College in the city. What has been decreed by us in these Apostolic Letters, it is forbidden to any person, at any time, to infringe, to oppose, or in any way to contradict. If anyone, may God prevent it, should presume to attempt this, let him know that he will incur the penalties prescribed by the sacred canons against those who obstruct the exercise of ecclesiastical jurisdiction. Finally, we decree that these present letters shall be valid, notwithstanding any contrary provisions, even those with special and explicit mention or derogation. Given in Rome, at St. Peter's, in the year of Our Lord one thousand nine hundred and sixteen, on the third day of the month of April, in the second year of Our Pontificate. At the Office of Lead. O. CARD. CAGIANODEAZEVEDO, S. B. E., Chancellor. Beg. in Cane. Ap., vol. XIII, n. 27. M. RIGGI, from the Tabularium C. A. C. CARD. DE LAI, S. C., Consistorial Secretary. Julius Campori, Apostolic Prothonotary. Raphael Virili, Apostolic Prothonotary.

[*Latin ed. p. 172*]

Acta Apostolicae Sedis - Official Commentary on the LETTER TO REVEREND FATHER ANTHONY, SUPERIOR OF THE FATHER LHOUMEAU HOUSE, GENERAL of the SOCIETY, in the year of MARY and the two hundredth anniversary of the death of the Blessed Legislator. Beloved Son, greetings and apostolic blessing. — In the latter part of the past century, since Blessed Louis Marie Grignion departed to the Lord, you, along with the families under your care, rightly prepared to offer solemn thanks to God, whose goodness has sustained you thus far. And We, for our part, are called to and gladly join in this joy. Indeed, in the praises of your societies, especially those originating from the Blessed Legislator, we see

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two things standing out: obedience to the Apostolic See and devotion to the Virgin Mother. A remarkable example of this obedience is that, as history tells us, your members were persecuted more severely than others by both Gallican and Jansenist heretics, because they seemed too devoted to the Roman Pontiff; and in that great upheaval in France, they suffered greatly for the same reason. No less did the Blessed Founder wish for love of the Mother of God to be present in you; indeed, this should be your special and proper characteristic, so that, by promoting the worship of the Divine Mother, you may promote the Kingdom of God among men. Very fittingly, for this task, He entrusted to you the book *De la vraie dévotion à la Sainte Vierge*, which He Himself composed, to be diligently presented to the people. And we are pleased to see that this has already been widely disseminated by you; may it be spread even more widely, and may it nourish the spirit of many Christians. Moreover, these two things are closely linked: for he who truly loves Mary cannot but love Jesus, for one goes through the Mother to the Son; and it is necessary to honor and obey the Vicar of Christ. Therefore, we heartily congratulate you on the not insignificant fruits of your labors, and on the fact that your institutions, despite the wickedness of the times, are flourishing. And you, continue as you have begun, to merit well for the Church, with Our approval, and confident in the divine graces which we earnestly pray will assist you. As a witness of Our hopes and of Our paternal benevolence, I, your Apostle,

[*Latin ed. p. 173*]

Acts of Pope Benedict XV, 173: We impart to you, beloved Son, and to all those under your care, the Members of Mary and the Girls of Wisdom, our most heartfelt blessing. Given in Rome, at St. Peter's, on the second year of Our Pontificate, on the nineteenth day of April, 1916. BENEDICT XV.

TO THE REVEREND FATHER JANUARIUS BUCCBRONI, S.J., DOCTOR, DEAN OF THE FACULTY OF MORAL THEOLOGY AT THE GREGORIAN UNIVERSITY; TO WHOM WE COMMEND HIS RECENTLY PUBLISHED BOOKS.

Beloved Son, greetings and Our apostolic blessing.

We are not unaware that your *Institutiones Theologiae Moralis* and your expertise in this discipline have been strongly praised, and have been commended more than once by Our predecessors, the blessed Popes Leo XIII and Pius X. And rightly so; for they are most excellent and profound matters concerning which you discuss with great accuracy, and in their explanation, you display a wealth of doctrine, the weight of judgments, order of things, and clarity of expression, so that everyone worthy of praise may follow you with commendation. We now praise them, having received from you a copy of your volumes. In them, we have gladly observed that you have also treated certain questions which seem particularly suited to these times. Therefore, you will understand that this gift has come to us

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most opportunely; even more so, because you, on behalf of yourself and your students, profess to us a most ardent love and obedience towards this Apostolic See. Indeed, as you write, it is to be hoped that the precepts of charity and justice may be spread more and more, without which there is no hope of lasting peace, nor of the stability of public affairs. Furthermore, having brought great benefit to your students, in particular, we are confident that the fruits of your labor will be abundant. We pray that God may reward you with the most excellent of gifts. And as a pledge of this, and as a testament to Our special benevolence, We impart to you, beloved Son, and to your students, Our most heartfelt blessing in the Lord.

Given in Rome, at St. Peter's, on the thirtieth day of April, 1916, in the second year of Our Pontificate. BENEDICT XV.

[*Latin ed. p. 174*]

174 Acta Apostolicae Sedis - Official Commentary III TO REVEREND FATHER EDWARD HUGON, A DOMINICAN, DOCTOR AND DECURION OF SACRED THEOLOGY AT THE URBAN COLLEGE OF THE ANGELS: PRAISING HIM FOR HAVING DISSEMINATED THE DOCTRINE OF SACRED THEOLOGY ACCORDING TO AQUINAS, ALSO FOR THE BENEFIT OF THE LAITY. Beloved Son, greetings and apostolic blessing. — It is most wholesome, and almost necessary in Catholic schools, where the sacred youth are instructed in the sciences of philosophy and theology, to hold Saint Thomas Aquinas in the highest regard. Thus, having been wisely established by Our predecessors, especially Leo XIII and the blessed Pius X, it is essential that this remain intact and inviolate. But we also consider it very opportune if the Angelic Doctor, as it were, emerges from the depths of the School, and brings a light almost divine to all who desire to be instructed more deeply in religion, through the brilliance of his intellect. For it is clear that the Modernists, who are said to be, have strayed so far from the Faith, into such a variety of opinions, because they have neglected the principles and discipline of Saint Thomas. For this reason, you have wisely undertaken to write, under the guidance of the most august doctrines of the Christian faith and the mysteries, for the greatest benefit of the laity, in a manner not usually employed in schools, but adapted to those who were not devoted to this study. We are pleased that your volumes, which encompass almost all of theology, flourish with prudent commendation, especially because the names seem to be exceedingly effective in both illuminating and defending the dogmas of religion, and in fostering a religious spirit. Indeed, just as piety is nonexistent unless it somehow blossoms from the very root of sound theology, so great is the praise of those books on theology, which kindle the desire for piety in the readers. To be able to offer you this praise is a great joy to Us; we hope that this labor of yours will benefit as many as possible. You, however, beloved Son, besides the abundant fruits of your work, await a most abundant reward from God; of

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which We, wishing you well and as a witness of Our paternal benevolence, impart to you our most loving apostolic blessing. Given in Rome, near Saint Peter, on the fifth day of May, in the year 1916, in the second year of Our pontificate. BENEDICT XV.

[*Latin ed. p. 175*]

175 The Most Holy Congregation of the Holy Office, ACTA: "MOST HOLY SUPREME CONGREGATION OF THE HOLY OFFICE, DECLARATION CONCERNING A WORK, on Thursday, April 12, 1916. In the general assembly of the Most Holy Supreme Congregation of the Holy Office, the Most Eminent and Reverend Cardinals, Inquisitors General in matters of faith and morals, declared: The work entitled: *La Leçon de l'Hôpital Notre-Dame d'Ypres - Exegèse du Secret de la Salette*, by Dr. Henry Mariam, Volume 1, Paris, 1915; Volume 2, Appendices, Montpellier, 1915, is condemned and prohibited, according to the general rules established in the Constitution concerning Offices and Duties. Given in Rome, from the offices of the Holy Office, on April 13, 1916. Aloisius Castellano, S.R. and U.I., Notary.

II. DECREE: A DOUBT IS RESOLVED CONCERNING THE BLESSING OF SACRED MEDALS FOR THE USE OF THOSE WHO WEAR THE SCAPULAR.

The following question was proposed by the Reverend General Procurator of the Order of the Friars Minor Capuchin: "Whether it suffices to bless once a scapular (e.g., the B. Mariae V. de Monte Carmelo), which is worn during the act of investiture, so that other scapulars of the same kind do not require a new blessing for the same person; or whether it suffices to bless a coin once, so that other coins, which are lost or worn, do not require a new blessing, or whether the coins must be blessed as many times as a new one is lost or worn?"

[*Latin ed. p. 176*]

176 Acta Apostolicae Sedis - Official Commentary. The Most Reverend Cardinals, General Inquisitors, in a meeting held on Thursday, May 10, 1916, responded: "Negatively to the first part; Affirmatively to the second." This resolution concerning the doubt was benignly approved by His Most Holy Divine Providence, Pope Benedict XV, in an audience granted to the Reverend Father, Assistant of the Holy Office, on Friday, May 11 of the same year. Notwithstanding any objections. R. CARD. MERRY DEL VAL, Secretary. h. © S. f Donatus, Archbishop of Ephesus, Assistant of the Holy Office. III DECREE CONCERNING A CERTAIN PERIODICAL REVIEW. On Thursday, April 12, 1916, in the general assembly of the Supreme Congregation of the Holy Office, the Most Reverend and Venerable Lords, Cardinals, General Inquisitors in matters of faith and morals, decreed: The periodical review entitled "Rivista di Scienza delle Religioni," published in

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Rome, by the Typografia del Senato di Giovanni Bardi, 1916, is condemned as an organ for propagating modernism. And on the following Friday, May 13 of the same month and year, His Most Holy Divine Providence, Pope Benedict XV, having received a full report on the matter in an audience granted to the Reverend Father, Assistant of the Holy Office, approved and confirmed the decree of the Most Eminent Fathers. Given in Rome, in the offices of the Holy Office, on May 26, 1916. Aloisius Castellano, S. R. et U. I. Notary. Note. - The Reverend Father Umberto Fracassini declared that his name had been improperly included among the editors of the aforementioned periodical, as he had not approved the publication of the new review and had refused to collaborate.

[*Latin ed. p. 177*]

SACRED CONGREGATION CONSISTORIAL FOR THE CARE OF CHURCHES.

Following the decrees of the Sacred Congregation Consistorial, the Most Holy Father, Pope Benedict XV, has, as follows, provided pastors for the churches:

May 5, 1916. — To the Metropolitan Church of Olmütz, he appointed the Reverend and Right Reverend Lord Leo, Cardinal Priest of the Roman Church, formerly Archbishop of Prague, as its Prefect.

May 5. — To the Cathedral Church of Majorca, he appointed the Reverend Lord Rigobert Domenech and Valls, Canon of the Metropolitan Church of Valencia.

May 5. — To the Cathedral Church of Vich, he appointed the Reverend Lord Francis Munoz and Izquierdo, Archpriest of the Cathedral Church of Barcelona.

May 8. — To the Cathedral Church of Diana, he appointed the Reverend Lord Horatius Caldarola, Canon Penitentiary of the Church of Biturica.

May 8. — To the Cathedral Church of Monaco, he appointed the Reverend Lord Gustav Vié, General Vicar of Orleans.

May 9. — To the Metropolitan Church of Bourges, he appointed the Reverend Lord Martin Izart, formerly Bishop of Pamiers.

May 16. — To the Cathedral Church of Omaha, he appointed the Reverend Lord Jeremiah Jacob Harty, formerly Archbishop of Manila.

May 22. — To the Cathedral Church of Lamezia Terme, he appointed the Reverend Lord Eugene Giambro, formerly Bishop of Sarsina.

May 27. — To the Cathedral Church of Lacedonia, he appointed the Reverend Lord Francis Maffei, Canon Penitentiary of the Church of Bisaccia.

May 27. — To the Cathedral Church of Luçon, he appointed the Reverend Lord Gustav Garnier, General Vicar of Nevers.

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May 27. — To the Cathedral Church of Ajaccio, he appointed the Reverend Lord Augustine Simeone, Canon of the Cathedral Church of Marseilles.

[*Latin ed. p. 178*]

Acts of the Apostolic See - Official Commentary 178 SAGRA CONGREGATION INDEX I DECREE. On the Feast of Saint Barnabas, the 5th day of June, 1916. The Sacred Congregation of Eminent and Reverend Cardinals of the Holy Roman Church, by order of the Most Holy Pope Benedict XV and the Holy Apostolic See, having convened in the Apostolic Palace at the Vatican on the 5th day of June, 1916, condemned, and ordered that the following works be placed on the Index of Prohibited Books, or be otherwise condemned and prohibited, and that this be so for the future:

* L. SALVATORELLI and E. HUHN, *La Bibbia. Introduzione all'antico e al nuovo Testamento* (*The Bible. Introduction to the Old and New Testaments*) (*L'Indagine moderna*, vol. XIX). Milan, etc., Remo Sandron, without date.

* P. JUAN DE GUERNICA, *La Perla de la Habana. Sor Maria Ana de Jesús Castro* (*The Pearl of Havana. Sister Mary Anne of Jesus Castro*), [Religious of the Capuchin Order of the Convent of Plasencia. Zaragoza, 1914, 2 volumes in 12mo.

* LUDOVICO KELLER, *Le basi spirituali della massoneria e la vita pubblica* (*The Spiritual Foundations of Freemasonry and Public Life*). Todi, 1915. *Rivista di scienza religioni* (*Journal of Religious Science*). Rome, of the Senate, 1916 (Decree of the Sacred Office, April 12, 1916).

* Dr. HENRI MARIAVÉ, *La leçon de l'hôpital Notre-Dame d'Ypres. Exégèse du secret de la Salette, Tome I* (*The Lesson of the Notre-Dame d'Ypres Hospital. Exegesis of the Secret of La Salette, Volume I*), Paris, 1915; *Tome II, Appendices*, Montpellier, 1915 (Decree of the Sacred Office, April 12, 1916).

Therefore, no person of whatever rank or condition may, in any place and in any language, henceforth publish, or read, or retain the aforementioned works, under the penalties prescribed in the Index of Prohibited Books.

[*Latin ed. p. 179*]

Sacred Congregation of the Index, 179. To which, having been related by the undersigned Secretary to the Most Holy Lord, our Pope Benedict XV, His Holiness approved the decree and commanded it to be promulgated. In witness whereof, etc. Given in Rome, on the 6th of June, 1916. FR. CARD. DELLA VOLPE, Prefect. Thomas Esser, O. P., Secretary.

Cyril Macaire, having submitted himself to the decree of the Sacred Congregation, published on the 12th of April, 1915, by which the book written by him was noted and inserted into the Index of Prohibited Books, in witness whereof, etc. Thomas Esser, O. P., Secretary.

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SACRED CONGREGATION OF RITES FOR THE DIOCESES OF ALL ITALY AND THE ADJACENT ISLANDS, CONCERNING THE FEAST OF THE TRANSLATION OF THE HOLY HOUSE OF THE BLESSED VIRGIN MARY.

The most celebrated, above all Marian sanctuaries of the Catholic world, and rightly and justly esteemed, is Loreto, which for almost six centuries has been honored with the greatest veneration and devotion by the faithful, with significant meanings: I say, the House, the birthplace of the Most Blessed Virgin Mary, consecrated to divine mysteries; for it was there that the Word was made flesh. That blessed House, formerly served by angelic ministrations, was first miraculously translated from the holy regions of Palestine, then to Dalmatia, and thence to Loreto in the province of Picena, and placed within the bosom of the Catholic Church, enriched with perennial miracles and the heavenly grace of benefits.

[*Latin ed. p. 180*]

Acts of the Apostolic See - Official Commentary 180. The feast of this wondrous Translation, assigned to its proper day, that is, December tenth, at the end of the seventeenth century, was observed each year without interruption in the churches of the aforementioned Picena Province, and gradually in other regions of Italy, and in many foreign regions of the entire world, with its own Office and Mass, until the year nineteen hundred and thirteen. Moved by all these things, and by the fervent desires of the entire flock, not to mention the sincere piety of all Catholic faithful, all the Sacred Ministers of the dioceses of the Picena Province earnestly implored Our Most Holy Lord Benedict, Pope XV, that He might deign to grant that the feast of the Translation of the Blessed House of the Virgin Mary be restored to its former honor, and celebrated each year. Our Most Holy Lord, Pope Benedict XV, receiving these supplications, which were presented to him by the aforementioned Cardinal, Prefect of the Sacred Congregation of Rites, and moved also by his own devotion to the Divine Mother, decreed that the feast of the Translation of the Blessed House of the B.V.M. be celebrated each year by all the dioceses of Italy and the adjacent islands, as well as by Regular and Religious Orders and Families who use their own calendars, and who are located within the boundaries of those dioceses, on December tenth, with the Office and Mass already approved, observing the rubrics. Furthermore, the same Holiness benignly granted that such a feast of the Blessed Virgin Mary may be extended to all other dioceses and Religious Families, provided that each Ordinary or respective Superior legitimately requests it, under the same clauses and conditions. Contrary to whatever may be. April 12, 1916. A. CARD. E P. PORTUEN.

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ET S. RUFINAE, S. B. G. Prefect. L. © S. Alexander Verde, Secretary.

[*Latin ed. p. 181*]

The Holy Congregation of Rites of BAVARIA, 181, concerning the title, feast, and office of the Most Blessed Virgin Mary, Patroness of BAVARIA. To no nation among the Catholic peoples is the Bavarian people second in devotion to the most blessed Virgin, Mother of God. Numerous temples, especially those constructed in the eighth and ninth centuries, attest to the most admirable devotion with which the Divine Mother has been worshipped from ancient times, and they stand out for their size and the richness of their art. Likewise, many Marian sodalities bear witness to this, and many members of the Royal Family have joined them. Moreover, the praiseworthy custom, which has prevailed among the Bavarian people since ancient times, of adorning the facades of houses with statues or icons of the Virgin Mary, is a testament to this. But the devotion to the Divine Mother is more clearly demonstrated by several shrines, such as those of Ettal, Birkenstein, Ramersdorf, and others, which surpass even the most famous chapel of the Carolingian era, located in the ancient estate of Hodingen (commonly known as Altoetting), from which it takes its name, erected within the territory of the Diocese of Passau, near the Royal Palace, and later splendidly adorned. There, frequent and numerous pilgrims from all regions of Bavaria, of every rank and condition, even from the Royal Court itself, are accustomed to gather, venerating the Virgin Mother of God and imploring her help. It is noteworthy that, with the Dukes and Princes-Electors of Bavaria leading by example, and especially Maximilian I of the Wittelsbach royal lineage, from the year 1620, the Bavarian people began to invoke the Divine Virgin under the title of Patroness of Bavaria and to show her fervent veneration. Therefore, in order to seek the singular help of the Mother of God in these difficult times of war, and to perpetually protect the Bavarian people with heavenly protection, King Ludwig III of Bavaria, together with his wife, Queen Maria Theresa, emulating the piety of their ancestors, and rightly recognizing the devout desires of many Catholic men of his Kingdom, through the Most Holy Pope Benedict XV, by a certain and Roman...

[*Latin ed. p. 182*]

Acts of the Apostolic See - Official Commentary. The Most Reverend Cardinal Andrea Frühwirth, Apostolic Pro-Legate in Bavaria, undertook to obtain the following: I. That the Blessed Virgin Mary, Mother of God, be declared the principal Patroness of Bavaria before God by the Apostolic See; II. That a special feast day of the Blessed Virgin Mary, under the title of Patroness of Bavaria, be celebrated annually on the fourteenth day of the month of May, with the appropriate rites, throughout all of Bavaria, according to a proper Office. The Most Holy Pope Benedict XV, most grate-

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fully receiving these pious requests, having them reported to him by the undersigned Cardinal, Prefect of the Congregation of Sacred Rites, declared with supreme authority the most blessed Virgin Mary, Mother of God, to be the principal Patroness of the entire Kingdom of Bavaria before God, and established that she be endowed with all the honors and privileges that are rightfully due to the principal Patrons of places: and he granted that the Feast of the Blessed Virgin Mary, under the title of Patroness of Bavaria, be celebrated annually in all the Dioceses of the Bavarian Kingdom, with a double rite of the first class, with the Octave, observing the rubrics; notwithstanding any contrary regulations. April 26, 1916. †g A. CARD. E P. PORTUEN. ET S. RUFINAE, S. R. C. Prefect. L. S. Alexander Verde, Secretary. III. FROM SION. DOUBTS REGARDING THE FEAST OF THE DEDICATION OF THE CHURCH. The Most Reverend Julius Mauritius Abbet, Bishop of Sion, humbly presented the following to the Congregation of Sacred Rites: I. Should the feast of the Dedication be affixed to the day of the month on which the Church was consecrated, if that day is known, and celebrated with external solemnity on the same day, even if it falls on a Sunday, and for how long?

[*Latin ed. p. 183*]

The Holy Congregation of Rites, 1882, II. Should the feast of Dedication be attached to a certain day of the month, so that the following Sunday is the same Sunday on which the feast of Dedication was celebrated after the passage of time? III. Should the external solemnity of the Dedication of a Cathedral Church be celebrated throughout the entire Diocese, or only in the Episcopal city? And the aforementioned Holy Congregation, having heard the opinion of a special Commission, judged that the following should be answered to the aforementioned questions: To I. Affirmative, concerning the Feast with Office and Mass. It can be, and is not required, concerning the external solemnity. To II. Affirmative, if the day of consecration is not known, or if it concerns the Feast of Dedication of churches that were consecrated, celebrating them on the same day. III. It can be, and is not required, according to the Decree of the Holy Roman Church of October 28, 1913, title I, number %. And thus it was written and declared. On May 5, 1916. *Ego A. CARD. EP. PORTUEN. ET S. RUFINAE, E. B. C. Pro-Prefectus.* L. & S. Alexander Verde, Secretary.

[*Latin ed. p. 184*]

184 Acta Apostolicae Sedis ACTA Official Commentary of the SACRED TRIBUNALS of the ROMAN ROTA I. NULLITY OF MARRIAGE (SANTELLI-STETTINER) Under the blessed reign of Pope Benedict XV, in the first year of his pontificate, on the 16th of August, 1915, the Most Reverend Fathers, Doctors Aloisius Sincero, presiding, Joseph Mori, and Frederick Cattani, Auditors from Tournon, in the cause of Pitilian e n. -

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Concerning the nullity of marriage, between Liberata Santelli, the plaintiff, represented by her legitimate procurator, advocate Henry Benvignati, and Torquato Stettiner, the defendant, who appeared and contested the cause as Defender of the Validity of the Marriage ex officio, rendered the following final judgment: Liberata Santelli was born of the marriage between Francis Santelli and Penelope Gortini, both of whom were widowed with children, and she entered into marriage with Torquato Stettiner on the 14th of October, 1907. This marriage had an unhappy outcome, although a child was born from it, and after approximately a year and a half, or on the 23rd of March, 1909, the conjugal life was interrupted, and Liberata returned to her mother's home with her daughter. Finally, on the 21st of November, 1912, she instituted an action for the nullity of her marriage, alleging that she had been subjected to violence and fear, for she was already an orphan when she married Torquato, and the cause, after being initially examined, came before the Sacred Congregation for its final determination, under the usual doubt: Does a nullity of marriage exist in this case? 1. Concerning the facts. - Liberata Santelli, having taken an oath, declared before the judge: "I met (Torquato Stettiner) in February 1907 (when I was approximately fourteen years of age), on the occasion of being presented to him by my mother, while I was still in school; he took advantage of this opportunity to persuade me to leave the school, and it was then that my mother told me that Stettiner had come to ask for my hand... I must state that, after leaving the Institute for two days, as mentioned above, and on this occasion I was presented to Stettiner, I returned to the Institute and remained there."

[*Latin ed. p. 185*]

The Roman Rota, 185, "until the time of the examinations, that is, until the month of June, and afterwards I was brought back home, where I was accompanied a month later by the Stettiner, by his father, and where the same remained, living with us in the family until the celebration of the marriage. During this time, our relations were indifferent." When asked whether "her mother left her full freedom to contract or not this marriage, and whether the parents of the Stettiner left him free to contract or not such a marriage," she replied: "Not at all; on the contrary, she forced me to marry the Stettiner; similarly, it was necessary for his parents." The actress also stated: "The reason that was given (to celebrate the marriage with Torquato Stettiner) was that, being single women, it was necessary to have a man in the house who would watch over our interests. Another reason that was given to me was that they wanted to see me settled at all costs. The reasons that induced the parents to force the Stettiner to marry me were that they wanted to keep him away at all costs from the company of a woman from whom he had already had a child, and also because they saw in me, financially speaking, a good match for their son... From the beginning, I was completely opposed to this marriage, and from that time

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on, my mother made her will prevail to force me into it; as a consequence, I was reprimanded, threatened, and beaten several times. Scenes of this kind occurred almost every day... Two days before the marriage, my mother announced to me that the wedding would be celebrated as soon as possible. At this news, I burst into tears, protesting that I did not want to endure the husband who was being forced upon me, I left the house alone with the intention of never returning, and it was only due to the intervention of the housekeeper that I returned home. On this occasion, as I was going up the stairs, I said to the same housekeeper, Ottavia Piccini, that I did not consent at all to the marriage that they were forcing me to have, and that I would not stay with the Stettiner for even eight days... I always resisted, protesting with tears to my mother... I had no one who could have come to my aid to resist the will of my mother. I had already lost my father, and of my three stepbrothers, one was completely in agreement with my mother in wanting this marriage, and the other two could do nothing in my favor, given the imperious character of my mother. The consent... was forced. On the day of the marriage, when the daughter of the housekeeper came to my room, while her mother was preparing me for the ceremony, and seeing me sad, she encouraged me, saying: "Be cheerful, today you are getting married," to which I replied: "If only I were ACTA, vol. VIII, n. 6. - 7-6-916. 13

[*Latin ed. p. 186*]

"Acta Apostolicae Sedis - Commentarium Officiale," and I wept bitterly. During the journey from Pian "Castagnaio" to Chiusi for the wedding trip, I did nothing but weep continuously, and this fact can be attested to by the coachman, Nello "Baiocchi"... As often happens, this marriage had an unhappy outcome. The husband could only fulfill his conjugal duties by force, as the actress asserts, and disagreements grew more and more each day, until conjugal life was abruptly ended, as mentioned above, without hope of reconciliation. "At the end of July or in the first days of August 1911," the actress declared, "my mother, having gone to Mass, was called by the parish priest, Father Filippo Pacelli, and he showed her a letter received from the Curia of Pitigliano, in which the Stettiner requested the nullity of the marriage, and as a result, my mother was invited by the same parish priest to give a deposition, and in this deposition, my mother stated that I had been forced into the aforementioned marriage..." The mother of the actress, Penelopes Cortini-Santelli, under oath, when questioned by the parish priest (although the proper legal order was not observed), testified as follows: "The negotiations for my daughter's marriage with the Stettiner began in December of 1905, and it was the Stettiner father who suggested to me that I marry my daughter to Torquato, his son. At that time, I was very distressed because of the lawsuit brought against me by Borghi Geremia concerning the inheritance of my deceased husband, and it did not seem believable to me to find a natural protector for my daughter, especially

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since the Stettinners seemed to me to be influential people with extensive connections. At the suggestion of the Stettiner father, I sent my daughter to the college in Pienza in November of 1906, and then the two young people met on February 9, 1907. Until that time, I had not seen or personally known Torquato, but I remember that when I first saw him, he did not make a good impression on me. From the indifference he showed in that situation, I thought he was a young man acting under the influence of someone and against his will; moreover, my daughter did not show herself to be any less indifferent. It is true that she still knew nothing of the negotiations that had taken place between me and the young man's father regarding her marriage; but when I explained to her the reason for the two of them coming to Pienza, she, amazed, said to me: "Are they perhaps coming to inquire about my dowry?" It was the father of the Stettiner who made the request to Liberata to marry his son, and the latter remained silent or, at most, smiled. My daughter did not respond and rather seemed surprised. After leaving the Mass, we left the two young people alone, so that they could speak with each other.

[*Latin ed. p. 187*]

"The Roman Rota, 187: 'Freely,' after which Torquato, when asked by me what Liberata had answered, told me that she had seemed content. But at the moment of departure, two young people said goodbye very coldly...' And after the mother recounted that Torquato had been joined to her by a certain shameful necessity while residing in Roma, she added: 'I should then have broken off all negotiations, but I wanted the marriage to be concluded, and therefore I readily and imprudently believed that this necessity had been abruptly ended; indeed, I took care that nothing should be revealed outside of all this, and I kept it hidden from everyone, and especially from Her, my Parish Priest.' Then, when the mother of Torquato arrived at the house of Penelopis, 'I explained everything to her and proposed interrupting everything... but the mother said so much and prayed to my son, that we did not break off...' What was Liberata's reason with Torquato before the marriage was contracted, the mother explained thus: 'This, more than once, weeping, said to me: "Mother, let him go, because I do not want to marry him."'"

"Although Penelopis Santelli was not questioned by the Parish Priest about whether she had been seduced, but only about the violence inflicted upon Torquato: 'If it is true that the Stettiner made such a marriage against her will and was violated by the father'; nevertheless, from the exposition of the facts, it is not obscure that the daughter had been joined in marriage to Torquato against her will."

"The law concerning this matter is well known: in our law, not only absolute force, or physical coercion, which completely removes free will, but also fear, or moral coercion, by which freedom is gravely diminished,

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dissolves the marriage, or renders it absolutely null from the beginning (c. 1.4, 15, 28, De sponsalibus et matrimonio; c. 2, De eo qui duxit...). The conditions, however, for fear to dissolve a marriage, according to common doctrine and constant canonical jurisprudence, are primarily that the fear must be grave and must fall upon a prudent man or woman, that it must be externally and unjustly inflicted, and that it must be directly inflicted in relation to the marriage. Fear in relation to marriage is usually instilled by those who have power over the betrothed, or, as is more often the case, the girl: this kind of fear is called reverential fear. If this reverential fear is based only on reverence for the parents, then it is not fear; if only offense, or sorrow or sadness of the parents is feared, it is light in itself; but if a grave and lasting indignation of the parents is prudently feared, and especially if the power of the parents, or their importunate and constant prayers, are added to other threats, or harsh and *aspera* ways of acting, or other similar circumstances,..."

[*Latin ed. p. 188*]

188 Acta Apostolicae Sedis - Commentarium Officiale: The fear and reverence are grave and qualified, and therefore they dissolve marriages. In assessing the nature and gravity of fear and reverence, it is especially important to consider the disposition of those experiencing the fear, whether they are inclined to anger and violence, and whether they have a temperament so hard and obstinate that they cannot tolerate anyone contradicting them or objecting to their plans, and the disposition of the one experiencing the fear, if the child, and especially the daughter, is of a gentle and mild disposition and timid, and how she is accustomed to living in the family, whether under the custody and vigilance of her parents, so that she is always and in all things dependent on their authority (S. R. Rota coram Sebastiane iii, 21 July 1910, n. 2; coram Many, 26 February 1910, n. 2; 13 March 1911, n. 2; coram Prior, 23 March 1911, n. 2, 7, etc.). 3. Indeed, from the records it is fully evident that the fear instilled by the mother, Penelope Santelli, in her daughter, outweighed all conditions for a valid marriage. For Mary Brizzi testified: "I was present at more than one scene in which the mother rebuked and beat her daughter because of this marriage... While Santelli (Penelope) was near death, and I was present, she often repeated, with tears, to her daughter: 'I am the one who ruined you,' and similar expressions." Octavia Delle Macchie: "I did not notice any aversion that the actress Liberata Santelli had for the groom, an aversion imposed by her mother. Several times she told me to herself that she did not want to marry Stettiner, and she became upset and cried because of the pressure from her mother. During the approximately 6 months that the fiancé lived in the actress Santelli's house, I did not observe any signs of affection between them. This aversion lasted until the eve of the marriage, and Santelli did not offer any strong resistance, either because she was too young, not yet

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having completed her 16th year, or because of her reserve and obedience to her mother's will. These things are known to me because of my daily presence in the actress's house, where I was employed as a servant. A few months after the marriage, the bride's mother regretted having sacrificed her poor daughter... Often I had to witness scenes in which the mother threatened and beat her daughter in order to force her to marry Stettiner, and the daughter endured everything out of respect for her mother. However, a few days before the marriage, she tried to run away from home in order not to be forced to marry, but unfortunately, she returned home." The witness further added: "I believe that she freely gave her consent," but later explained "that the marriage of Liberata was the result of the will of her mother, despite the protests that the daughter made to the contrary, protests that lasted until the celebration of the marriage."

[*Latin ed. p. 189*]

S. Romana Rota, 189, tb-olomaeus Sbrolli: "I am very well informed about my presence in the house of the 'Santelli,' regarding the aversion that the actress had for the Stettiner. I have seen her weep and have heard her repeat that she did not want anything to do with that young man, and lamenting the pressures that her mother and brother were exerting on her. I do not exaggerate if I assert that, solely out of obedience and in deference to her mother's will, the actress submitted to the marriage. After this occurred, the actress's mother repeatedly expressed to me her sorrow for having sacrificed her daughter, having imposed the marriage upon her for the Stettiner." And afterwards, when questioned: "What did you intend to say with those words: 'I do not exaggerate if I assert that, solely out of obedience and in deference to her mother's will, the actress submitted to the marriage?'" he replied: "With those words, I intended to say that the actress submitted to the marriage out of obedience and deference, stemming from fear and threats that her mother made concerning this marriage." Assumpta Chiesi: "From the actress's own mouth, I have repeatedly learned of her aversion for the Stettiner, and this aversion lasted throughout the period of engagement, to the point of threatening to hide herself in order to prevent the civil marriage. I have seen the actress weep on several occasions, and I have heard her lament the pressures of her mother and brother, and repeat that she did not want to enter into such a marriage. Faced with the insistence of her mother and brother, she yielded solely out of obedience, and not out of affection for the young man, the Stettiner." These last words were subsequently explained as follows: "With those words, I intended to say that the Liberata gave forced obedience, and, given her education and her young age, she was forced to do what her mother wanted." Elvira Romagnoli: "I believe that the (marriage) was not celebrated with the spontaneous consent of the Liberata, who rather acted out of the impulse and will of her mother... I

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know instead that the Liberata did not want it and persisted in her refusal, despite the presence of the Stettiner, and this I also learned from the mouth of my mother-in-law (Penelopis, that is to say), during the aforementioned time." I also recall a fact, to which I myself was a witness, which occurred twenty or thirty days before the marriage. One day, I found myself at the house of the Santelli, and the maid, Ottavia Delle Macchie, was present, combing the Liberata's hair, and I saw the Liberata burst into tears. When questioned by me about the reason, she replied: "What do you want? They want to force me to do it (referring to the marriage); but my mother will never have peace, and I will not even stay there for eight days..." I also recall that on another occasion, when the mother and daughter returned from the Abbey, I saw in their house, where the Stettiner was also present, that both of them were arguing, always about the marriage, and the mother said..."

[*Latin ed. p. 190*]

190 Acta Apostolicae Sedis - Official Commentary: "A blow was struck against the daughter, which left her with scratches. This occurred, "if I remember correctly," approximately two months before the marriage." Angelus Romagnoli, the uterine brother of the actress, who, however, as he himself asserts, is "in rather strained relations with her due to matters of interest," testified as follows: "The marriage was certainly entered into against the will of Liberata, and at the instigation and insistence of her mother... I deduced this assertion from various facts preceding the marriage, among which I recall the proposal made by my sister Liberata to my wife to flee before the engagement was finalized. I also recall that Liberata herself expressed her disapproval of the proposed marriage to me on similar occasions; and when I made objections to the mother about this, she responded to me with a curse, stating the necessity of the marriage itself in order to have a man of strength in the house to protect her interests... The means used to persuade Liberata to marry consisted of arguments and persuasions that the mother used with her regarding the conditions in which both of them found themselves due to economic interests. There were also scoldings, and sometimes even slaps, to persuade her to this end." Indeed, it is also evident from the records that the mother, Penelope, while she lived, caused distress to her daughter. For, in addition to the witnesses Mary Brizzi, Octavia Delle Macchie, and Bartholomew Sbrolli, whose testimonies we have already presented, Ursula Sbrolli testified: "I also recall that after the marriage was celebrated, and when disagreements had already begun between the spouses, the mother of Liberata, weeping, expressed herself in these words: 'Oh, my God, why do you keep my Liberata in so much suffering, when I alone am the guilty one?'" The priest Livius Bassi, a relative of the actress, testified: "Some time after the celebration of the marriage, and after the daughter had already returned to the

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family, we heard the mother, in a moment of distress, say: 'I have ruined my daughter.'" Doctor Leopold usTraversi testified: "I can... with certainty and conscience affirm that after the marriage, the late Penelope Santelli came to me on several occasions to unburden herself about this marriage, clearly expressing her regret for being the only and sole instigator of this marriage, which, otherwise, would never have taken place, according to the will of her daughter Liberata, and she did not conceal that the wrath of God would strike her for the sacrifice she had made of her daughter." Anna Jasinski testified: "I learned... during the Easter following the marriage, and this from the mouth of Liberata's mother, that she had been the cause of the ruin of her daughter. This confidence was given to me by the same woman on several subsequent occasions."

[*Latin ed. p. 191*]

The Roman Rota, Decree 191: "After the marriage, the mother of Liberata Santelli several times demonstrated her sorrow for having imposed the aforementioned marriage upon her daughter." Annunziata Magini: "After the marriage, the mother of Santelli constantly complained to me about having sacrificed her daughter by imposing that marriage upon her." Doctor Joseph Orienti, notary, testified: "One day, I went to Radicofani with Signora Liberata Santelli and her mother, and I heard the former lamenting about the unfortunate family situation in which she found herself, and she blamed her mother for it, to which the mother fully agreed with her daughter." Another time, the mother of the plaintiff confessed to me that she had been the determining cause of her daughter's unhappy state... " Furthermore, the mother's confession, made at a time when it was not suspected, and even after her death, is to be given great weight; and the types of things she said were: "Having ruined, having sacrificed her daughter, by imposing the marriage upon her," and similar expressions, such as "being the only and sole author of this marriage, which otherwise, due to the will of her daughter Liberata, would never have taken place; being the determining cause; having imposed the marriage." These cannot be understood in the case of lawful persuasions and encouragements that did not diminish the daughter's freedom, but only of the fear instilled in the daughter. Moreover, as d'Annibale rightly pointed out (I, n. 138, note 16 in fine), that which someone does under compulsion from parental (and maternal) authority (from cap. Puella, 8, q. 5), should be said to have been done out of reverential fear. Therefore, from these and many other witnesses, whose testimonies it would be too lengthy to recount, it is fully proven that Liberata was compelled to enter into marriage with Torquato due to a truly grave and direct fear instilled in her with regard to the marriage itself. But there is no room for doubt about the injustice of this fear: it was unjust both in its manner, because the means employed, namely threats, beatings, etc., were entirely illicit and unjust, and also in its substance, because Liberata

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was completely averse to the marriage with Torquato (argument from S. R. Rota, before the Legate, June 1, 1911, etc.). 4. And the force of these arguments grows considerably if we consider the character of the mother and daughter. Almost all the witnesses, with one voice, declare that the mother was of an imperious character, of iron will, and unyielding; while the daughter was timid, of weak will, accustomed to obedience, and completely incapable of resisting her mother, especially considering her age. As an example of the testimonies, Maria Brizzi testified: "The mother's character was impetuous and capable of instilling fear in her daughter." Nazarenus Crestini: "The mother's character was violent and capable of imposing her will upon her daughter, who, even due to her tender age, was completely submissive." Anna Jasinski: "She (the mother) was of a..."

[*Latin ed. p. 192*]

The Acts of the Apostolic See - Official Commentary: "Irascible and mysterious, and I believe she is capable of imposing herself not only on the 'daughter,' but also on the husband, especially since the daughter's character was 'and is mild.' Ersilia Bajocchi: 'The mother's character was despotic and capable of instilling fear in the daughter, who, even due to her young age and inexperience, was timid and therefore subject to violence from the mother.' Silvia Savini: 'The mother had already confirmed to me that it would only take threatening the daughter with a punch to make her change a 'no' into a 'yes.' Elvira Romagnoli: 'The mother's character was authoritarian and violent, while the daughter's disposition was mild and easily subjugated.' Telemachus Romagnoli: 'The mother's character was irascible, terrible, and everything she wanted had to be done. The daughter's character was mild and obedient.' Moyses Romagnoli: 'The mother's character was irascible, strange, bizarre, and capable of instilling real fear in the daughter, who submitted to the mother's will.' Also, Ursula Stralli, Leopold Traversi, etc. This does not invalidate what the defense of the accused argues, namely, that here there is indeed material suitable for fabricating a coerced consent in the matter, or the capacity to instill and endure fear; but that this material does not provide sufficient grounds for the claim: therefore, it must be strictly proven that the fear itself was instilled in the act. For, if we exclude Nazareno Grestini and Silvia Savini, who nevertheless implicitly or explicitly testify to the extent of the mother's power over the daughter, all the other witnesses cited above, who testify to the character of the mother and daughter, also testify to threats, reprimands, beatings, in short, to fear in general and in the specific act. Furthermore, the fear itself instilled in the act is strictly proven from what we have discussed above. Therefore, the witnesses who testify to the character of the mother and daughter, and who also increasingly confirm the severity of the fear, not only absolutely, but also relatively, that is, in relation to the daughter, prove and further confirm the severity of the fear. The fear instilled in the

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daughter was not only grave, both absolutely and relatively, but there was no means for the daughter to avoid it. For, as Aloysius Bajocchi testifies: 'The speaker (Liberata) would have had no one to turn to for advice, since the mother kept her close and was in relations, if not strained, certainly not good with the entire paternal family.' And the priest Livius Bassi, a relative of the actress, when asked to dissuade Penelope from marrying her daughter to Torquato Stettiner, refused: 'I replied using a local expression: "We are more friends than relatives," meaning that we were not in good relations and that I therefore declined the request.' From these things, what the actress declared is also confirmed: 'I...'

[*Latin ed. p. 193*]

"In the Roman Rota, case 193: 'persons who could have come to my aid and resisted for me, against the will of my mother.' I had already lost my father and three half-brothers; one of them was in full agreement with my mother regarding this marriage, and the others could do nothing in my favor.' And furthermore, the testimonies of Telemachus Romagnoli and Moyses Romagnoli, uterine brothers of the actress, are extremely serious. He: 'I also remember that the same Liberata manifested to me, in similar circumstances, her dissent regarding the proposed marriage; and when I made objections to my mother about this, she responded to me with an imprecation...' He: 'I also note that, one day, when I observed to my mother the unsuitability of this marriage, she responded, in the presence of the other brother, Angelo, and his wife, Elvira, that she could even drown me without giving an account to anyone.' And Maria Brizzi, a relative of the actress: 'Having warned my cousin (Penelope) against the Stettiner, who was having relations with a young woman from whom he had a child, she responded to me: "You must marry him, even if he is Musolino, otherwise I will kill you." The daughter was also present at this scene, and she burst into tears.' Therefore, from these things, it is most clearly demonstrated that not only was there no means for Liberata to escape the fear instilled by her mother, but that even worse evils would have befallen her if her mother had, in any way, persisted.

5. Now, concerning the main observations of the defender of the bond, it does not matter that the beginning of the fear should be taken from the cause that prompted the person to act wrongly, because nothing happens without a sufficient reason, and if the fear originates from elsewhere, no one is guilty unless proven otherwise: therefore, since the opportunity was lacking for the mother to demonstrate her capacity to instill fear on the part of the daughter, the fear itself could not have been instilled. For, firstly, when the cause of the fear is discussed, the same judgment must not be rendered as in the case of the cause of, for example, simulation. For simulation is a purely internal act, and therefore it is proven primarily through presumptions based on a necessary and sufficient cause, and from

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circumstances or conjectures. But coercion is a certain external act, which is primarily proven by witnesses and from facts, such as threats, beatings, directly deduced. Once, therefore, the fear has been proven in the act committed, as stated above, the reason does not hold against the fact. Secondly, nothing happens without a sufficient reason: but these must be assessed primarily from the character and disposition of the agents. In our case, this about the mother's character is testified by Doctor Traversi: 'Penelope was, as the saying goes, a harpy, while the daughter, without will and with limited intelligence, passively submitted to the will of her mother, who was a woman of few scruples...' "

[*Latin ed. p. 194*]

194 Acta Apostolicae Sedis - Commentarium Officiale. Et Ursula Sbrolli: "The mother of the 'Liberata' was of a nervous and authoritarian character, and everything she wanted had to be done, even if she recognized it to be unreasonable." Therefore, although it is alleged that there was a subjective reason for instilling fear on the part of the mother, namely, to provide assistance to the Stettiner family in a certain inheritance dispute, and that Torquatus himself was motivated by patrimonial reasons, or, as they say, the interests of Penelope and Liberata, this was not a sufficient reason to instill fear; nevertheless, the fear itself, which was instilled in the act, was not excluded, but rather, the very fact of the fear confirmed that it was unjust. Furthermore, it is objected that the mother and certain witnesses testified that Liberata appeared indifferent in her pre-marital relations with the groom. However, as the defender of Vinculi stated, indifference is a state of mind indicating the agent's inclination towards neither side, and even if the mother's intervention led to the daughter's will being determined more towards one side than the other, it does not follow that the alleged fear, which is proper to one who does not want to do what they do not want, was present. For, first, Penelope stated that her daughter appeared indifferent when Torquatus was first presented to her as a suitor while she was still residing in the educational home; but this indifference, from the context of the statement, is equivalent to acting "under the impulse of some person and against her will," as the mother herself suggested, based on Torquatus's indifference. Moreover, Penelope herself insinuated that Liberata was averse and estranged from Torquatus, stating that her daughter, weeping, said to her: "Mother, send him away, because I do not want to marry him." Then, when the witnesses speak of Liberata's indifference, they mean that she neglected or hated Torquatus. For Octavia Delle Macchie stated: "During the approximately six months that the fiancé resided in the home of the actress Santelli, I did not observe any signs of affection passing between them. This aversion lasted until the eve of the marriage..." Assumpta Chiesi: "From the actress's own mouth, I learned several times of her aversion for the Stettiner, and this

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aversion lasted throughout the engagement..." And Melchiades Puttini: "I knew of the aversion that the actress Santelli had for the young Stettiner. One evening, I saw her weeping and heard her say that she was not happy to be having such a marriage..." Thus, also Bartholomaeus Sbrolli, etc. 6. Furthermore, it is not valid to object that Penelope sometimes changed her mind regarding the marriage of her daughter with Torquatus, when she was once informed of Torquatus's scandalous relations with a certain woman, and that she sought the assistance of the parish priest, "weeping and lamenting that she was sacrificing her daughter."

[*Latin ed. p. 195*]

The Roman Rota, 195: "by arranging for her to marry the man from Stettin." For, in the beginning, Penelope concealed from the priest those disgraceful relations and the intimacy of Torquato with his mistress, from which the priest might have raised an impediment to the marriage. Penelope herself declared: "I then (declared Penelope herself) would have 'had to break off all negotiations, but I wanted the marriage 'to be concluded, and therefore I drank heavily, indeed I took care that 'nothing would leak out of all this, and I kept it hidden from everyone 'and especially from you, my priest.'" Then, this change of plan on the part of Penelope was entirely futile and ineffective. For, as the aforementioned account shows, Penelope easily and imprudently believed that Torquato was free and released from his mistress; and as she herself adds: "The mother (of Torquato) said and begged me and the son that 'we would not break off.'" Finally, and this is of the utmost importance in this matter, the conduct of Penelope with outsiders, whether with the priest or with Torquato's mother, must be clearly distinguished from her conduct with her daughter. In this sense, the principle of law can be applied that matters agreed upon between others do not harm or benefit another. For although Penelope, at times, and briefly, changed her mind, both in her heart, and towards the priest and Torquato's mother, she nevertheless did not change her conduct with her daughter. This is deduced from the mother's own account and is confirmed by Silvia Savini: "The mother, speaking with me, agreed on the necessity of 'breaking off that engagement. Yet, it was she who insisted with her daughter 'that she submit to the marriage with the man from Stettin.'" Indeed, Maria Brizzi testifies, whether she herself directly received this information or from Torquato's father, that "to 'eliminate these dangers, the time of the celebration of the marriage, 'which was to take place later, was hastened." Furthermore, it is also evident from the records that the mother exerted coercion upon her daughter, and conversely, that the daughter's resistance, her aversion to the marriage imposed upon her, persisted continuously and perpetually until the celebration of the marriage. Silvia Savini testified: "However, the mother had already confirmed to me that 'it would have been enough to threaten to hit the daughter with a fist to make her

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change a 'no into a yes.' During the engagement, 'as I learned from the mother herself, the daughter always showed 'repugnance to the company of the fiancé, who was already living in the family. I then learned, 'after the marriage was completed, always from the mother of the bride, that 'the night before the wedding, the daughter, who was sleeping in the same room 'as the mother, had begged her to let her escape and hide in 'some farm." Ersilia Bagnini: "Mrs. Penelope, confiding in me, 'told me that the night before the wedding, the daughter 'wanted to flee from home to hide in a farm belonging to them."

[*Latin ed. p. 196*]

196 Acta Apostolicae Sedis - Commentarium Officiale "properties to escape this marriage." Assumpta Chiesi: "From the 'mouth of the actress herself, I learned of her aversion to 'the Stettiner.' This aversion lasted throughout the period of the engagement, to the point of threatening to hide in order to prevent the 'civil marriage.' I often saw the actress weeping, and I understood her lamenting the pressures of her mother and brothers, and repeating that she 'did not want to contract such a marriage.'" And Octavia Delle Macchie: "I am aware of the aversion that the actress Liberata Santelli had for the husband 'imposed upon her by her mother.' Several times she told me herself that she did not want to marry the Stettiner, and she vented her feelings and wept because of the pressures 'of her mother.' ... Often I had to witness scenes in which 'the mother threatened and beat the daughter in order to force her to marry the Stettiner,' and the daughter endured everything out of respect for her mother. However, a few days before the marriage, she tried to flee from home in order not to be 'forced to marry'..." Furthermore, these witnesses speak directly of the daughter's aversion, but this aversion, from the entire context of the testimonies and from the circumstances narrated by the witnesses themselves, such as 'the husband imposed upon her by her mother,' and 'I understood her lamenting the pressures of her mother,' and 'she vented her feelings and wept because of the pressures of her mother,' and especially from the attempted escape on the night before the marriage, can only be understood and referred to as the mother's coercion of the daughter. It does not matter that, according to the testimony of Octavia Delle Macchie, the escape attempt by Liberata was made 'a few days before the marriage': whatever may be the case with this particular circumstance of time, it is certainly true that all the witnesses, whose testimonies we have cited above, agree in affirming the daughter's aversion and, therefore, the mother's coercion up to the celebration of the marriage, and this is expressly stated by Octavia Delle Macchie herself: "This 'aversion (of Liberata, namely, to the husband) imposed upon her by her mother,' and indeed by 'pressure,' threats, and beatings, as Octavia Delle Macchie herself testifies, 'lasted until the eve of the marriage.'" Therefore, the conjecture of the defender of the bond, that Liberata, in attempting

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to flee, and herself wanted to follow a changed plan of her mother and lead her to external acts, also collapses. If the mother had changed her plan regarding the marriage with respect to her daughter, the daughter would not even have thought of Torquato; otherwise, Liberata's continued aversion, her complaints and tears, and especially her attempted escape, cannot be understood and explained. And if even Penelope led Liberata often to say to her with tears, "Mother, send him away because I do not want to marry him," if she had truly changed her plan with respect to her daughter, it would not have been Liberata, but rather Torquato who should have fled from Liberata's sight.

[*Latin ed. p. 197*]

Therefore, in the judgment of the Roman Rota, considering that the defender of the bond presents the testimony of the local official regarding the supposed joy of the woman in the civil ceremony, it is not necessary to give weight to this testimony. For, on the one hand, the information provided by the local parish priest, which is nonetheless significant, lacks the force of proof in the abstract and in isolated circumstances; and, on the other hand, the question arises as to whether the party who presented a witness in court to testify in their favor can subsequently object to the testimony given, which, however, we do not admit in any way; rather, several other witnesses, and those of considerable weight, lead us to a contrary judgment, especially considering the circumstances of the case as recounted by them. For Ursula Sbrolli testified: "I clearly remember that shortly before the wedding celebration, while I was at the same woman's house and saw Liberata completely distraught and weeping, I asked my mother, who was also there, the reason, and she replied to me: 'She doesn't want to [marry]'; then, turning to Liberata, I said to her: 'Be happy, you are getting married! Why are you so upset?' And she, in turn, replied: 'I am marrying God!'" And while the local official affirms: "I could observe that the woman, Santelli, appeared quite content with the act she was performing," Ersilia Bicocchi testifies to the contrary: "The ceremony (whether it be a civil ceremony or a marriage celebration) as a whole was cold..." And Silvia Savini: "Having wanted to see the procession of the wedding party, I noticed that the bride had more the appearance of a resigned victim than of a happy bride..." Therefore, the declaration of the local parish priest, which insinuates that she was deceived regarding the stay of Torquati Stettiner in Rome, "even with the connivance of the bride," is not to be considered. For this is an empty conjecture, which has no foundation in the records. Nor should the testimony be considered that "when I questioned her about Christian doctrine, I noticed... that the bride was more cheerful than the groom." For this does not necessarily exclude the matter of coercion, as noted above; and since the parish priest, when speaking of the joy of her expression, is not a qualified witness or one by office, his testimony yields

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to the testimonies that we have presented above. Finally, much has been disputed in this case because the marriage was celebrated after the faith of Torquati's free status had been disregarded for the time that he resided in Rome. Furthermore, the subjective manner of acting of the parish priest concerning the bride is not something that we need to investigate. But if everything written by the parish priest himself to the Pitilian Curia is to be taken as true, namely: "It is true that before contracting the aforementioned marriage, no certificate was requested from the Vicariate of Rome, but this happened due to the fault of Stettiner himself, because both he and his mother, and other people who came in his company, testified to me..."

[*Latin ed. p. 198*]

198 Acta Apostolicae Sedis - Commentarium Officiale « and the Stettiner Torquato had never had a stable residence in « Rome... », it is difficult to understand why Father Torquati, without being asked by the local parish priest, or even being informed about this matter, arranged for publications to be made in the parish of Saint Vitalis in the City, and it is also difficult to understand why, to the parish priest himself, who was completely unaware of Torquato's residence in Rome, it was stated « that the Stettiner Torquato had « not had a stable residence in Rome ». The difficulty is especially serious when considering what was stated in his other testimony by the parish priest of Saint Vitalis in the City, namely: « The Lady Santelli and her daughter came to me... and the Lady insisted « that I issue a certificate of freedom of status. It was on this occasion « that I pointed out to the aforementioned Lady, in the presence of her daughter, that I could not « grant her request, given the information I had received about previous promises « made by the Stettiner ». Therefore, since Liberata, having learned of this impediment to the previous marriage of Torquato, could easily have freed herself from the marriage with Torquato by informing her own parish priest, secretly, either through her mother, or directly, or through intermediaries, why did she not do so, if she was so averse to the marriage with Torquato? She must therefore bear the blame if she did not use this easy means to avoid the marriage. However, if we overlook the fact that Liberata testified that she did not know who had requested the marriage publications to be made in the parish of Saint Vitalis in the City, and if we assume that everything she says is true, as the parish priest of Saint Vitalis claims, it is difficult to understand why neither the parish priest of Saint Vitalis nor the Vicariate of the City, having been informed of this matter, as the parish priest himself affirms, informed the Pitilian Curia, or at least the parish priest proper of the bride. For, in fact, the matter of a certificate of freedom of status is legally handled between Curias, and by custom between parish priests themselves, through direct correspondence (Wernz, Ius matr., I, n. 133). Therefore, since neither the Pitilian Curia nor the parish priest proper of the bride requested the parish priest of Saint

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Vitalis to make the publications, the parish priest of Saint Vitalis was justified in suspecting, and indeed should have suspected, that the parish priest proper of the bride was unaware of the impediment of Torquato's previous marriage and of his residence in Rome; and, on the other hand, since both Father Torquati of Stettin, and the Santelli family were very insistent in obtaining the certificate of freedom of status, it was easy to suspect the danger of fraud. Then, Liberata, who previously already knew of Torquato's shameful relationship with his mistress, according to the testimony of the parish priest of Saint Vitalis, at that time learned of the circumstances of the previous marriage and, for this reason, could not obtain a certificate of freedom of status from the parish priest of Saint Vitalis; but she, aware of...

[*Latin ed. p. 199*]

Saint Montana Bota, especially given her age, could have considered the declaration of prior betrothals as an impediment preventing the marriage, and her own declaration made to the parish priest, could have allowed her to avoid the marriage with Torquato; it is by no means permissible to conjecture this from the evidence presented in the case. Elsewhere, she could scarcely have hoped for any help from her parish priest regarding her mother. For he was the one who, although he should have suspected that Torquato had been in Rome, as is evident from her declaration just cited, nevertheless did not further inquire whether Torquato had been in Rome during the time required by the sacred canons for making announcements, or whether he had been there or not. He was also the one who, although he had heard the mother of Liberata shortly before the marriage "weeping and lamenting that she was sacrificing her daughter, making her marry 'with Torquato'," overlooked the bride separately and cautiously, as it is said, in order to ascertain whether she was being joined in marriage of her own free will, spontaneously and willingly, and truly with the consent of her mind, as is required by law (Wernz, cited, n. 130). 7. Finally, and most importantly, Liberata could have prudently feared even worse evils from this revelation by her mother, under whose authority, since she was barely sixteen years old, she was and had to remain. For, on the one hand, Penelope, as can be inferred from her declaration or testimony to the local parish priest and from other circumstances, could easily have suspected that the declaration of prior betrothals had been made by Liberata, either directly or indirectly; and, on the other hand, she was so harsh in spirit that, despite those who tried to dissuade her, she would respond with threats, to say nothing more, "that she could even drown her without giving an account to anyone," and, in the presence of Liberata herself, "she must marry him, even if he were Musolino, otherwise I will kill her." When it is a question of free consent to marriage, it is necessary to inquire whether that person enjoys full security, and whether their will is being investigated, lest they say that they consent to something they hate, out of fear (cap. Cum locum,

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14, de sponsal.). Likewise, when it is a question of a forced marriage, it is not necessary to inquire whether someone could absolutely have avoided and escaped the marriage, but whether they could have, without great difficulty, avoided the evil they feared (Arg. Gasparri, De matrim., II, n. 944). 8. Having considered all of these things, both in fact and in law, We, the undersigned Auditors in Tournon, sitting for the Tribunal, invoking the name of Christ, and with only God before our eyes, decide, declare, and definitively sentence, answering the proposed question: Affirmative, that is to say, that the marriage is null and void in this case. Thus we declare, ordering the local Ordinaries and the officials of the tribunals to whom it pertains, to enforce this our definitive sentence, and to proceed against those who resist, according to the sacred laws.

[*Latin ed. p. 200*]

Acts of the Apostolic See – Official Commentary on the canons, and especially chapter 3, session 25, concerning reforms, of the Council of Trent, with the executive and coercive means applied, which will be more suitable and effective according to the circumstances. In Rome, at the seat of the Sacred Roman Rota, on August 16, 1915. Aloisius Sincero, President. Joseph Mori. Frederick Cattani. L. £B S. From the Chancery of the Sacred Roman Rota, November 30, 1915. Sac. T. Tani, Notary. II. PARISIAN. NULLITY OF MARRIAGE (DE PAYER - LEVEL). Under Pope Benedict XV, in the second year of his pontificate, on March 4, 1916, BR. PP. DD. William Sebastianiii, Dean, President, Seraphinus Many, and Raphael Chimenti, Auditors from Tournon, in the Parisian case – concerning the nullity of marriage, between Alice de Payer, represented by her legitimate procurator, Nazarenus Ferrata, advocate, and Paul Level, with the intervention and objection of the Substituto Defensor Vinculi ex officio, they rendered the following final judgment. Alice de Payer was twenty years of age when her mother proposed marriage to her with Paul Level, from a respectable family. Alice resisted her mother, not only because of Paul's dissimilar character, and his religious sentiments and manners, but also because she strongly desired another young man, namely, Count Jametel. After the marriage proposal was made, her mother became seriously ill, and, while reproaching her daughter for her opposition to Paul, claiming that this was the main cause of her illness, the daughter, in order to appease her, replied: "Very well, we shall see." The following day, having been urgently informed of all this, Paul offered Alice a wedding ring, which she accepted. And after insistent prayers and continuous reproaches from her mother, the marriage was celebrated in Paris, on July 17, 1900, in the church of Saint-Honoré. But this marriage had an unhappy outcome. For when the marital relationship had become completely intolerable, Alice, four years after the beginning of

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the marriage, obtained a divorce judgment.

[*Latin ed. p. 201*]

The Roman Rota, in case 201, definitively abandoned the authority of civil law. Subsequently, the Parisian court was approached, so that, through a prior canonical process, no marriage would be declared null; and on January 21, 1915, a judgment favorable to the plaintiff was issued. However, the defender of the marriage, as is legally proper, appealed this to the Holy Tribunal: and today, the case is presented for discussion under the usual formula of doubt: Whether a marriage is valid in this case. Regarding the law: Since, through marriage, not a thing, but the very body and the very freedom of the individual are transferred to the other, perpetually, a greater freedom is required in actually entering into the marriage, than in other contracts. Hence, from chapters 14 and 15, title "De sponsalibus et matrimoniis," arose the canonical theory, accepted by all doctors, that, at least according to ecclesiastical law, fear invalidates marriage, if it is grave, even if only relatively so, if it is external, unjust, and imposed in order to extort consent to the marriage. This has been rightly extended to the fear that is called reverential; that is, the fear by which we dread the indignation of him in whose power we are, provided that something else is added, e.g., importunate prayers, long-lasting persuasions, imperious words, harsh language, etc. Emund'Annibale writes: "Reverential fear is said to be present, when someone fears the 'indignation,' which is certainly an evil, even if there are... beatings, or punishments; which, if they are to be grave and prolonged, are a grave evil, and therefore, the 'grave fear' is not undeservedly considered" (Summula, Vol. I, n. 138, note 16, 3rd edition). Gasparri also states this, De Matrim., Vol. II, n. 942, 3rd edition. Indeed, in these cases, the Holy See has declared marriages null several times, notably in Parisian. - Matrim., May 16 and September 15, 1903, and in another Parisian case, November 21 of the same year. Similarly, in these same cases, the Holy Rota declared marriages null in two Parisian cases, February 26, 1910, and March 13; in Tarvis, March 11, 1911; and in Romana, February 7 of the current year, 1916. Now, regarding the facts. We have stated that Alice testified that she had "another plan for marriage, a young man, who pleased me very much, had expressed the desire to marry me. My mother was informed and had almost given her consent." Truly, no one can fail to understand that such a state of mind renders one incapable of fostering new affections. However, this was not considered by the mother of Alice, and the marriage with the aforementioned Count was entered into with all her strength and very abruptly, "brusquement," finding a way to make the Count ACTA, Vol.

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VIII, n. 6. - 7-6-916.

[*Latin ed. p. 202*]

The *Acta Apostolicae Sedis* records that she would no longer enter the house. "One day," (according to Alice), "I noticed that this young man no longer came to the house, and when I remarked on it, my mother replied that she had told him not to come again and not to count on me." It is not surprising that Alice's mother behaved in this way, because the records show what her ideas were regarding conjugal love. She held that "most marriages are concluded without love, and that all this (love in marriage) is nonsense; that a young woman does not need to love in order to marry, that most women marry without love, and that love comes afterward." To these pessimistic teachings must be added the mother's imperious nature. "My mother was authoritarian in every encounter," said Alice's brother. And the fiancé: "Madame de Payer was an excellent woman, but authoritarian." Indeed, the mother herself confessed to those who were dissuading her from the marriage, saying: "That I was the mother, that I desired the happiness of my daughter, and that I was convinced that this marriage would have a good outcome, and I proceeded." On the contrary, the daughter is said to have had a "very gentle" nature, but was "very deferential to her mother... very accustomed to always obeying... very impressed by her mother's authority." Therefore, this docile young woman, when her mother, while suffering from an illness, forbade her to complain, and, "afflicted at seeing her in that state," gave her mother the reply: "Well, we shall see"; these words are very ambiguous and signify nothing other than that Alice wanted to consider marriage. But the next day, Paul Level "arrived telling me that all the difficulties were resolved, and bringing me the ring," which Alice accepted. However, her thoughts were: "That I would end up tiring Mr. Level with my coldness, and that I would know how to prevent them from ever setting a date for the marriage." However, this was prevented by the mother's insistent persuasions and threats, which, from her words, constituted a grave fear. "The means that I used to bring my daughter to this marriage were never anything other than arguments of reason... I first showed her the advantages that she would find in her marriage with Mr. Level, and then I told her that we would separate, that I would abandon her," or, as Alice adds, "that I would be left to fend for myself in life." This is confirmed by her brother, who says that he heard his mother speaking to his sister with these words: "If you do not marry Mr. Level, I will no longer take care of you in life." Not only was abandonment threatened, but also disinheritance: "She (the bride) added to her declarations threats; she spoke of disinheriting me." It is truly to be believed that the bride was threatened with disinheritance, as Alice's brother says: "It

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was even a question of disinheriting her"; Doctor Hirschberg says:

[*Latin ed. p. 203*]

The Roman Tribunal heard the mother say to her daughter, that she would disinherit her and "abandon her if she did not consent to this marriage"; and Madame Louise Horak stated: "The mother threatened to disinherit her, nevertheless." It must not be said that the mother could not actually carry out the disinheritance. To this difficulty, Alice responded: "Some of the threats were almost impossible to carry out; but at the time, I did not doubt their reality, and even now, I am convinced that my mother would have found a way to never see me again, if I had resisted her." The reason is that, as the mother said, "she (Alice) was very young, she took the threats seriously," and "she (adds the brother) knew nothing of practical life; she did not know, for example, the rights of a mother over the inheritance." Madame Horak also stated: "She never went out and was accustomed to always obeying; that is why I am convinced that the mother's threats were taken seriously by her." These continued demands and harsh threats from the mother caused arguments between the mother and daughter. "All these discussions led to painful scenes between us," the mother asserted, and Horak confirmed: "I witnessed several times scenes between the mother and the daughter, in which the latter, in tears, declared that the marriage with Mr. Level was repugnant to her." Indeed, the disagreements became so severe that Alice "no longer ate, she was sad, she had a great deal of anemia and a severe nervous depression." Alice did not neglect to try every way she could to dissuade her mother. Since the mother was not swayed by the daughter's pleas, nor by her tears, and the father had been separated from the family for a long time and was absent, unable to offer any advice or help to his daughter, she: a) dared to leave the house, which she had never done before, and approached Madame Flory, a friend of the mother, earnestly asking her to persuade the mother to change her mind. However, Madame Flory achieved nothing with the mother. "This attempt was in vain," said Alice, and Flory confirmed: "I tried in vain to convince her to give her daughter back her freedom, and that she was exposing herself to the most serious misfortunes in the future." b) Distressed and suffering from a nervous illness, Alice asked Doctor Hirschberg, who had come to visit her, to intervene with the mother. The doctor, after visiting the daughter, pleaded with the mother not to expose Alice "to something that could be irreversible." But the mother received the doctor's advice poorly, and after the doctor left the sick woman's room, she told her daughter, "that she would disinherit her and abandon her if she did not consent to this marriage." c) Not content with this, the unfortunate girl, realizing that she had lost all hope of persuading her mother, fifteen days before the

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marriage...

[*Latin ed. p. 204*]

204 Acta Apostolicae Sedis - The official record indicates that the final plan was to leave the house and proceed to the family estate in Oppido Etretat, with the hope that this sudden departure would cause great astonishment and scandal among all, and that Paul would break off the marriage arrangements. However, the mother soon learned of this, and she followed her daughter to the estate, remaining with her for fifteen days, cleverly pretending that this trip had been prescribed by a doctor for health reasons. Therefore, it is not surprising that, under her mother's influence, the daughter sent love letters to her fiancé, and it is clear that some witnesses deny the escape, yet they admit to the fact of the removal. Thus, all of Alice's attempts were in vain, and the wedding celebration was scheduled for the following day. However, the records show that, shortly before the religious ceremony, Alice told her fiancé: "It is well understood that I am marrying you under duress, and forced, and that, if I were left to myself, I would never have wanted this marriage"; and this assertion of the bride is confirmed by the groom's brother and the witnesses Pironneau. The first stated: "She had a fit of tears at the very moment of leaving for the ceremony, and she declared before me, and before several people, to Mr. Level, that she was only marrying him under duress and force"; the other stated: "On the morning of the wedding... I heard the bride say to her fiancé with my own ears: 'You know that I do not love you, and that if I am marrying you, it is under duress and force.'" It is therefore not surprising that Alice, when giving her consent before the Church, as her mother reports, "said 'yes,' trembling, and she answered the priest's questions with a dying voice"; for she was "as pale as death." Therefore, neither witness Flory nor Pironneau could understand anything. This aversion of the bride towards her husband continued after the marriage. This is so true that she constantly refused to fulfill her conjugal duties, and if intercourse ever occurred, it was due to the husband's violence. And after thirteen months from the day of the wedding celebration, "Mr. Level," Alice testified, "has frequently tried to fulfill his duties as a husband. I have always opposed him." "It is understood," she told him, "that I only married you under duress. Therefore, leave me alone." "Only once, thirteen months after the marriage, by surprise and by force, was he able to approach me. We have never had any other conjugal relations." And this despite the fact that the husband tried to entice her to fulfill her duty in various ways. Indeed, Paul Level testified: "I have shown a great deal of patience, and I have obtained only a small result. The marriage act has been performed, but only once." The Defender of the Bond, however, raised several objections to the above, the main difficulty being derived from the testimony of the husband, who

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asserts...

[*Latin ed. p. 205*]

The Roman Rota, in case 205, states that the bride willingly accepted the engagement ring and other gifts, and it does not mention that Alice placed the ring back, nor has it ever heard of the bride fleeing to the estate of Etretat. However, the difficulty vanishes if these points are considered: 1) Paul's testimony, which demonstrates fear and coercion, confirms, namely, Alice's resistance to the marriage; he asserts that Alice was subjected to the imperious coercion of her mother, and that she was unable to appeal to anyone; he affirms that Alice declared to him that she did not consent to the marriage except under duress, and that, after the marriage began, she had only performed the conjugal act once, after a year had passed. 2) The fact that Paul does not remember something does not mean he denies it; these things, however, are demonstrated by trustworthy witnesses from their own knowledge. 3) If Paul did not know about the bride's flight, this must be attributed to the mother's cunning, who, in order to avoid scandal and the disruption of the marriage arrangements, spread the word that the trip was for the purpose of medical treatment. 4) Finally, from the fact that Alice accepted the gifts, it does not follow that there was a spontaneous consent to the marriage, since, at the same time, the girl was very afraid of upsetting her ailing mother. Moreover, all the circumstances, whether before or after the acceptance of these gifts, prove that Alice never gave her consent spontaneously. It is well known that more credence should be given to two witnesses who testify to fear than to a thousand witnesses who deny fear, or who affirm a spontaneous will. After carefully considering all of these things, we, the undersigned Auditors sitting for the Tribunal of Tournon, and having God alone before our eyes, invoking the name of Christ, decide, declare, and definitively sentence that the marriage is null and void in this case. Thus we pronounce, ordering the Ordinaries of the places and the officials of the tribunals to whom this pertains, to enforce this our definitive sentence, and to proceed against those who resist, according to the sacred canons, especially chapter 3, session 25, concerning reforms of the Council of Trent, using the executive and coercive means that are most appropriate and effective for the circumstances. Rome, in the seat of the Tribunal of the Holy Roman Rota, on the 4th of March, 1916. William Sebastian III, Seraphinus Many, Raphael Chimenti. From the Chancery, March 17, 1916. Sac. T. Tani, Notary. Dean.

[*Latin ed. p. 206*]

206 Acta Apostolicae Sedis - Official Commentary

SUPREME SIGNATURE OF THE APOSTOLIC TRIBUNAL OF VICENZA, CONCERNING EXEMPTIONS,

between

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B. Parochus Sancti Marci of the city of Vicentia, represented by his lawful procurator Vincentium Sacconi, advocate,

and

RR. Capellanos of the Hospital of Sancti Bartholomaei of the same city, represented by his lawful procurator Angelum D'Alessandri, advocate.

In Vicentia, formerly existed the Hospital of S. Antonii and others smaller ones, which in the year 1773 were united into one, within the territory of the parish of S. Marci, under the name "Ospedale grande degli infermi e poveri," also called the Hospital of Sancti Bartholomaeus, because the church of Sancti Bartholomaeus was assigned to it, which, having belonged to a religious order, had an adjoining cemetery.

The spiritual care was first entrusted to the Capuchin Fathers (1775-1806), then to the Fathers of the Minor Observance (1807-1810), afterwards to secular priests (1810-1824), and finally, until the present time, to the Reformed Fathers (1824-1916).

In the year 1786, on the 13th of February, an agreement or concordat was initiated between the parochus of S. Marci and the rector of the Hospital, the beginning of which is as follows:

"Because, in the future and forever, the 'independent rights' that belong to the pious Hospital of the sick and poor of this city must be recognized, and which in the past were exercised without opposition within the Hospital itself, with regard to spiritual matters, and in the church of the Hospital itself, and which at the same time the parochial rights that, with respect to the aforementioned Hospital, may pertain to the Reverend parochus of S. Marco, in whose parish the Hospital is located, must appear, it is agreed between the presidents of the aforementioned Hospital's Order and the Reverend Mr. D. Carlo Bonvicini, the current parochus of S. Marco of this city, in the following articles:

'The aforementioned parochus recognizes the total independence of the aforementioned Hospital with regard to its internal spiritual jurisdiction,' etc.

Furthermore, in the Statutes of the year 1773, under article 1, it is written:

"There shall be two chaplains, two religious Capuchin Fathers, until a new decision of this government."

[*Latin ed. p. 207*]

Apostolic Signatura 207: "Those who are chosen by their father, the Guardian, will be assigned to the care of the entire internal hospital, administering the Holy Sacraments of Penance, Eucharist, and Extreme Unction to all the sick, and performing any and all parochial functions that may be required... Over the body of each person who dies, they will recite the customary prayers and funeral rites prescribed by the Ritual, without being able to demand any contribution or alms."

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Year 1814: The Congregation of the Hospital, to the new prior and chaplains, in addition to other matters, states: "He will finally be informed of the agreements reached by the previous administration regarding parochial rights with the Reverend Father, the parish priest of Saint Mark."

The Minor Fathers, who perform the duties of chaplains, since the year 1824, have entered the hospital, according to an agreement initiated by the bishop, in which they agreed to observe the Statutes of the year 1773.

However, the current parish priest of Saint Mark has taken up the complaint that his predecessor, Father Pegoraro, had begun against the exemption of the chaplains of the Hospital of Saint Bartholomew from the jurisdiction of the parish priest of Saint Mark, and their right to perform funeral rites for the faithful who died within the hospital.

The episcopal court of Vicenza, after considering the following questions: "1) Is the Hospital of Vicenza, erected within the boundaries of the parish of Saint Mark, exempt from all parochial jurisdiction? 2) To whom belongs the right to perform funeral rites for the deceased within the hospital?" on August 11, 1911, rendered the following judgment: "The ecclesiastical court, invoking the light of the Holy Spirit, judges that the civil Hospital of Vicenza is exempt from all jurisdiction of the Most Reverend parish priest of Saint Mark, and that the Reverend Fathers, the chaplains, have the right to perform funeral rites for all the deceased within the hospital. The Most Reverend Father Giovanni Perin, parish priest of Saint Mark, is condemned to pay the costs."

The arguments upon which this judgment is based are: "1) The Hospital of Vicenza should be classified among the larger or more important institutions: constituting a quasi-parish, which enjoys exemption for all those evident reasons of necessity and expediency explained by the canonists. 2) The exemption is recognized by the Vicentine Synodal Decrees... therefore, the Reverend Fathers, the chaplains, depend solely on the Bishop for the exercise of their jurisdiction. 3) The parish priest admits that he cannot enter, and does not enter, the interior of the Hospital to perform acts of jurisdiction without the permission of the chaplains."

[*Latin ed. p. 208*]

208 Acta Apostolicae Sedis - Official Commentary « 4) Furthermore, the right concerning funerals derives from the care of souls; therefore, "even setting aside any other argument, the right to perform funerals for the deceased within the Hospital belongs to the Reverend Fathers chaplains who, by episcopal mandate, exercise jurisdiction therein, independently of the parish priest." However, the parish priest Perin of Saint Mark appealed to the Sacred Roman Rota, and the following doubts were debated: 1) Does the Hospital of Saint Bartholomew in the city of Vicenza have total exemption from all parochial jurisdiction in this matter? 2) Does the right to bury and perform funeral rites for the faithful who die within the same

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Hospital belong to the parish priest of Saint Mark, or rather to the chaplains of the Hospital? 3) Should the judgment of the first instance be confirmed regarding expenses, or rather, should it be amended in this case? On March 30, 1915, the judgment of the Roman Rota was issued, which, setting aside the arguments by which the judgment of the Vicenza court justified the exemption of the chaplains, declared that the foundation and cause of the exemption of the chaplains of the Hospital of Saint Bartholomew lies solely in prescription; and it answered the proposed doubts as follows: "To 1) Affirmative, regarding the administration of the sacraments, which are usually conferred upon the sick in hospitals, namely Penance, the Eucharist, and Extreme Unction, except for the sacraments of Baptism and Marriage; then regarding the blessing to be given to the Hospital itself on Holy Saturday; and especially regarding the funerals of the faithful who die within the same Hospital. "To 2) As decided in the first instance. "To 3) Affirmative regarding the first part, negative regarding the second part. And furthermore, the judicial expenses before this Tribunal are to be borne by the parties; and we decree and declare that the parish priest of Saint Mark must pay the entire tax for the Roman Judgment." Against this judgment of the Sacred Roman Rota, the parish priest Perin appealed to the Supreme Tribunal of the Apostolic Signatura, and the following doubts were agreed upon between the parties: 1) Is there grounds for circumscription or rescission of the judgment of the Roman Rota in this case? And, to the extent that the answer is negative, 2) Is there grounds for restitution in full? On March 11, 1916, in the halls of the Vatican, a full session of the Signatura was held, with the Most Reverend Father Michael Cardinal Lega, Prefect, presiding, and the question was subjected to careful examination. The Most Reverend Fathers initially did not consider it appropriate to establish a rule in this matter.

[*Latin ed. p. 209*]

The Apostolic Signature 209 concerns the examination of judgments rendered by lower courts, which, due to their conformity with the law, are already considered decided matters and are in the period of execution. However, a review of a judgment is sought through an appeal to this Supreme Tribunal, and this review does not pertain to the examination of the issues between the parties, in order to determine what the law is between them; rather, it involves the examination or recognition of the judgment itself, which the appellant claims is flawed or defective, and therefore should be declared null, or at least, if justice so dictates, rescinded. This is the purpose of our Tribunal, which is outlined in the Pandects, book 49, title VIII, "Of judgments that are rescinded without appeal," where in section 1, paragraph 3, it is stated: "Also, when a judgment is rendered contrary to the Constitutions, the necessity of an appeal is waived. A judgment is rendered contrary to the Constitutions when a decision is made concerning the law

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of the Constitution, and not concerning the law of the litigant." Indeed, when a judge in his judgment pronounces contrary to the Constitutions, or manifestly violates the law, whether general or particular, the necessity of an appeal is waived; for then the defect in the judgment is corrected even outside of a judgment, either by the judge who pronounced it declaring the judgment to be null, or by another judge appointed for this purpose, declaring the judgment to be null, or rescinding it. In civil nations, tribunals have been established that are considered supreme, and which are now called by various names, and among us and in Gallia they are called the Cassation; and these tribunals are not appeals, but are held as supreme tribunals to safeguard the law, so that these laws are not violated in judgments. The same purpose has been attributed to our Supreme Tribunal, which does not judge concerning the law of the litigant or the merits of the case, but pronounces concerning the law of the Constitutions, so that these may be observed and protected in judgments. In the Rotali judgment from Vicenza, concerning which the matter stands as described, the appellant, or the procurator for the parish of Saint Marci, argues that the judgment is flawed, or at least should be rescinded, because it is based on a false premise, namely, prescription, which, in this case, cannot apply – the procurator argues – because there is no certain, or unambiguous, and continuous possession for the legally required time. Furthermore, the procurator contends, based on the testimony of witnesses, that it has not been proven that the hospital chaplains were in possession, or quasi-possession, of the right to perform funerals properly according to the ritual laws, and that this possession was not memorable, but rather, not long-lasting, or continuous for forty years. Finally, it is asserted that the contested possession is flawed by another, and even more serious, defect, namely, that it is a precarious possession, since the chaplains in the hospital can exercise their authority only by a power granted annually or delegated by the bishop, as proven by certain documents.

[*Latin ed. p. 210*]

The Acts of the Apostolic See – Official Commentary. The Most Reverend Fathers have examined the objections and defects, and have found that none of them are sufficient to invalidate the judgment, because no defect of citation, competence, mandate, or any other substantial or formal defect is alleged from which the nullity of the judgment could be declared. Nor can the case involve the extraordinary remedy of restitution in integrum, which extraordinary remedy pertains primarily to cases involving newly discovered documents, or the proven falsity of presented documents. Therefore, the Most Reverend Fathers inquired whether the judgment should be annulled, because the title of prescription asserted by the Rotali judgment does not appear to be based on a probable foundation; because, from the documents presented, it appears that the parish priest

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of Saint Mark's never actually exercised spiritual care in the Hospital, nor could he have legally exercised it, due to the laws of the synods; while the chaplains did, in fact and in law, exercise this care. Indeed, the Most Reverend Fathers noted that, considering the facts, from the documents presented, a historical fact can be deduced, namely that the chaplains of the Hospital of Vincenti, in times long past, acted as if exempt from the jurisdiction of the local parish priest, and recognized themselves as directly subject to the Bishop, and this fact is derived from: 1) the statutes of the Hospital of the year 1773, and 2) also from the agreement that was entered into in the year 1786 between the parish priest of Saint Mark's and the rector of the Hospital. It does not present a difficulty that, in the agreement, "those independent rights that belong to the pious Hospital are recognized, and which in the past were exercised without opposition within the aforementioned Hospital," since the Hospital had been established only a short time before, namely in the year 1773, or a short time had passed from one act to the other, and therefore this observance should not be given little authority. For it is asserted that this independence was observed by the parish priest without his contradiction, which is a very serious argument for legitimate exemption, especially in its beginning. Furthermore, nothing prevents the asserted observance from extending also to other, smaller hospitals, from the union of which the larger Hospital of Saint Bartholomew was established. It is also not useful to object that the aforementioned documents cannot be taken into consideration, unless it is proven whether the rectors of the Hospitals and the parish priest of Saint Mark's were instructed with the necessary authority to enter into the aforementioned statutes or agreements, when they led to a statutory law or a pact of exemption for the chaplains. For, as noted above, the Most Reverend Fathers examined these documents, above all from a historical point of view, or as they manifest a historical fact of exemption.

[*Latin ed. p. 211*]

Regarding the 211th document of this historical event, the legal basis should be sought from the Emi Patres, who will find it in the synodal laws of Vicenza, both ancient and recent, which stipulate that chaplains of the Hospital are exempt from the jurisdiction of the parish priest in the administration of spiritual care, which includes the administration of the sacraments to the sick and their funerals, and that they depend directly on the bishop. Indeed, in chapter 12 of the Synod of Vicenza held in 1689 under Bishop Rubini, to certain offices of the chaplains pertaining to the care of souls in the Hospitals, the following is added: "Without our permission, the sacraments shall not be administered there; and if they have their own chaplains, these shall not dare to undertake any exercise of care unless they are approved and admitted." Furthermore, it is stipulated in the synodal laws of 1718 under Bishop Venier, and in the synodal laws of

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1780 under Bishop Gabrieli. This is made even clearer in the most recent diocesan synod of Vicenza in 1863, held under Bishop Farina, where in chapter VII, paragraph 8, it is stated: "No priest shall take upon himself the office of rector or chaplain in hospitals or other pious places, unless he has been designated by us and endowed with our special mandate... But neither shall any parish priest, nor any priest, even if he is approved for the entire diocese, be permitted to lawfully administer sacramental confessions in our seminary, in hospitals, unless in the case of the imminent death of a sick person, and if there is no assigned confessor, or if the sick person in that imminent danger requests a particular confessor." The fact that this right—not only as a synodal right of the diocese of Vicenza, but also as a particular right throughout the entire region of Venice—is in force is clearly demonstrated by the documents presented. Therefore, the statutes for the Hospital of Saint Bartholomew have been drawn up in accordance with the synodal laws, so that they constitute a legitimate and statutory right for the Hospital. Furthermore, the Fathers of the Order of the Reformers, called by the local ordinary in 1824, undertook the spiritual care of the Hospital of Saint Bartholomew "under the same regulations with which the RR. PP. Capuchins once assisted" (1775-1805), namely, in accordance with the statutes of the Hospital and the synodal law, independently of the parish priest of Saint Mark. Therefore, the status of exemption enjoyed by the chaplains is not only based on diocesan laws and the statutes of the Hospital, but also on a special agreement and convention, by virtue of which they have accepted the spiritual care of the Hospital, and for this reason, it is certain that the bishop cannot alter this in any way. Furthermore, the Emi Patres noted that the annual approval granted by the bishop does not pertain to the chaplains' exemption from the parish priest, but rather to the personal approval and suitability of the chaplains themselves to exercise the care of souls.

[*Latin ed. p. 212*]

Acts of the Apostolic See - Official Commentary. Since the matter stood thus, both in law and in fact, the Eminent and Reverend Fathers determined that the Royal Decree should be confirmed, and they did not invoke this as a reason or legal foundation for a prescription, which, indeed, seems to have no place, because a right cannot be prescribed which has never been exercised by the parish priest, nor could it be exercised, given the opposition of the synodal laws. For this reason, the argument invoked by the Royal Decree, which appeared to be a case of *de facto* alienation, does not contribute to the justice of the decision, nor does it harm the right of the Ordinary, nor of the parish priest, nor of the chaplains, especially since the Royal Decree seems to be dealing with a custom rather than a true prescription, and it often invokes a custom, and the same custom, whose beginning precedes even the union of the small hospitals in the larger Hos-

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pital of Saint Bartholomew. It has been observed that the exemption of the chaplains from the parish priest of Saint Mark has, at least remotely, its foundation in the practice prevailing in the region of Venice, as is evident from the documents presented, and as the Venetian author Berengo writes in his work *Enchiridion Parochorum de Xenodochiorum Capellanis*, article 2; and the nearest foundation is to be found in the Vicentine synodal constitutions. Therefore, regarding the proposed doubts, namely: 1) Whether there is a place for the annulment or rescission of the Royal Decree in this case? And, to the extent that the answer is negative: 2) Whether there is a place for restitution *in integrum*? The Eminent and Reverend Fathers responded on March 11, 1916: Negatively to both; that is, there is no place for either the nullity of the Royal Decree in this case, nor for its annulment or rescission, nor for the benefit of restitution *in integrum*. Regarding the judicial expenses, the Supreme Tribunal decreed that they should be borne equally by the parties. And thus it was promulgated, pronounced, decreed, declared, and definitively judged, and it was ordered that this definitive judgment be made public and that it be enforced against all to whom it pertains, not only, etc., but also against all, etc. Given at Rome, on April 28, 1916. Franciscus Solieri, Signatory of the Votes. L. S. Approved: Nicholas Marini, of the Secretariat. Joseph adv. Fornari, S. T., Notary.

[*Latin ed. p. 213*]

Secretaria of State, ACTS 213 OF THE SECRETARIA OF STATE, CONCERNING WHOM SHOULD BE CALLED APOSTOLIC MESSENGERS, AND WHOM SHOULD BE DECREED APOSTOLIC DELEGATES. From the Audience of the Most Holy Father, on the 8th of May, 1916, the Most Holy Pope Benedict XV, considering with His mind how it is fitting and more appropriate to arrange the names by which, up to this day, those who, for their own dignity, are accustomed to be called, and who represent the person of the Roman Pontiff in foreign lands, should be designated, and also to adorn some with an addition of honor who, although they do not possess the title and rank of Apostolic Nuncios, nevertheless perform a stable mission among the governors of foreign states, having referred the matter in writing to the Cardinal of the Secretaria of State, He has deigned to decree that all of these, from now on, should be called Apostolic Messengers, and that only those should be called Apostolic Delegates who, although they represent the person of the Pope, are nevertheless entirely lacking in that diplomatic character which is called, in fact, a diplomatic character. Contrary opinions notwithstanding. Given at Rome, on the day, month, and year aforesaid. P. CARDINAL GASPARRI, of the Secretaria of State.

[*Latin ed. p. 214*]

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DOUBT REGARDING THE ROMAN CURIA

SACRED PENITENTIARY

APOSTOLIC NOTICE OF COMPETITION

It is hereby notified that in the Sacred Tribunal of the Apostolic Penitentiary, a competition will be held for the Office of Substitute, through a written and oral examination. The written examination will take place on June 23rd of the coming year, at 8 o'clock, and the oral examination on the 27th, at 9 o'clock. Priests who wish to participate must, no later than June 20th, present their application, accompanied by the necessary qualifications for admission, to the Secretariat of said Sacred Tribunal.

From the Secretariat of the Sacred Penitentiary, May 20, 1916.

C. Perosi, Regent.

SECRETARY OF STATE

APPOINTMENTS

By a letter from the Secretary of State, the Holy Father has deigned to appoint:

April 8, 1916. — Mons. Lorenzo Schioppa, secretary of a nunciature of the first class, auditor of the second class, to serve at the Apostolic Nunciature in Bavaria.

May 15. — His Eminence Cardinal Ludovico Billot, Protector of the International League "Pro Pontifice et Ecclesia."

May 30. — Mons. Ernesto Filippi, secretary of a delegation of the first class, to serve at the Apostolic Delegation in Canada.

By Brief Apostolic letters, the Holy Father has deigned to appoint:

Assistants to the Papal Throne:

March 28, 1916. — Mons. Francesco Egger, Bishop of Brixen.

April 30. — Mons. Adolfo Alessandro Nouel, Archbishop of San Domingo.

May 16. — Mons. Andrea Righetti, Bishop of Carpi.

May 30. — Mons. Giulio Vaccaro, Archbishop of Bari.

[*Latin ed. p. 215*]

From the Roman Curial Diary:

Protonotaries apostolic, participating as observers: April 28, 1916. — Monsignor Teodoro Hévin, of the Archdiocese of Rennes. May 8. — Monsignor Nazareno Cervigni, of the Archieparchy of Camerino. May 9. — Monsignor Emilio Dubois, of the Archdiocese of Toulouse. May 20. —

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Monsignor Enrico Przezdziecky, of the Archdiocese of Warsaw.

Domestic Prelates of His Holiness: March 29, 1916. — Monsignor Michele Lévay, of the Diocese of Vacia. April 18. — Monsignor Pietro Dombek, of the Archdiocese of Posen. May 9. — Monsignor Luigi Moulin, of the Archdiocese of Toulouse. May 20. — Monsignor Silvio M. Nardi-Dei, of the Diocese of Chiusi.

HONORS

By Apostolic Briefs, the Holy Father deigned to bestow the following honors:

The Grand Cross of the Order of Saint Gregory the Great, civil class: May 9, 1916. — To Mr. Fernando Osorio y Eloia, formerly the Plenipotentiary Minister of His Most Catholic Majesty to the Courts of Holland and Luxembourg.

The Commander's Cross of the Order of Saint Gregory the Great, civil class: April 13, 1916. — To Mr. Federico Del Corto, of the Diocese of Montepulciano. May 5. — To Mr. Giovanni Barreré, of the Diocese of Perpignan. May 11. — To Mr. Giuseppe Nalbone, of the same Diocese. May 26. — To Mr. Gaetano Gargano, of the Diocese of Nicastro.

The Knighthood of the Order of Saint Gregory the Great, civil class: April 30, 1916. — To Mr. Carlo Unger, of Kristiania. May 19. — To Mr. Carlo Polaczek, of Kristiania. — To Mr. Michele Della Cella, of the Archdiocese of Genoa.

The Commander's Cross of the Order of Saint Sylvester the Pope: May 20, 1916. — To Mr. Francesco Catelli, of Rome.

The Knighthood of the Order of Saint Sylvester the Pope: April 28, 1916. — To Mr. Gian Giuseppe Chiola, of the Archdiocese of Genoa. May 16. — To Mr. Ernesto Paban, of the Diocese of Marseille.

[*Latin ed. p. 216*]

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MAGGIORDOMATO OF HIS HOLINESS

By order of His Eminence, the Reverend Major Domo, the Holy Father has deigned to appoint:

Extraordinary Secret Chamberlains of His Holiness:

November 12, 1914. — Monsignor Anthony Rigoni, of the diocese of Segna.

February 10, 1915. — Monsignor Giovanui Ronai, of the diocese of Rosnavia.

July 14. — Monsignor Garlo Seedoch, of the diocese of Giavarino.

November 9. — Monsignor Peter Jacobs, of the archdiocese of KolÃn.

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January 31, 1916. — Monsignor Peter Hoeveler, of the same archdiocese.

February 12. — Monsignor Celestino Mahé, of the diocese of Alessandria.

March 9 — Monsignor Gaetano Cicognani.

April 8 — Monsignor Solón Garcia Pedreira, of the archdiocese of Bahia.

April 15. — Monsignor Rodolfo Simlinger, of the diocese of St. Hippolytus.

April 25. — Monsignor Anthony Prieto, of the diocese of Cuenca.

May 19. — Monsignor Francesco Gonçalves de Lima, of the diocese of Aracajú.

— Monsignor Vittorino Correira Fontes, of the same diocese.

— Monsignor Antonino Bossatis, of the archdiocese of Turin.

— Monsignor Ambrose Salvetti, of the diocese of Novara.

Honorary Chamberlains in peacock blue of His Holiness:

April 15, 1916. — Monsignor Giovanni Herzog, of the diocese of St. Hippolytus.

April 25. — Monsignor Francesco Pührerfellner, of the same diocese.

Monsignor Giovanni Battista Panken, of the diocese of Bois-le-duc.

— Monsignor Giacinto Ballesio, of the archdiocese of Turin.

— Monsignor Lewis Campanari, of the diocese of Viterbo and Tuscania.

April 29. — Monsignor Giuseppe C. de Paz y Morales, of the diocese of Teneriffa.

May 20. — Monsignor Augusto Zaffarame, of the diocese of Orte.

Extraordinary Secret Chamberlain of Sword and Cape of His Holiness:

May 17, 1916. — The Most Noble Marquis Francesco Doria Lamba, of the archdiocese of Genoa.

Honorary Secret Chaplain of His Holiness:

April 15, 1916. — Monsignor Corrado Wengritzky, of the diocese of Scepusio.

[*Latin ed. p. 217*]

Year T U I - Vol. VIII, July 7, 1916, No. ?

ACTA APOSTOLICAE SEDIS, Official Commentary

ACTS OF POPE BENEDICT XV ON THE EUCHARIST OF CHILDREN,

BY THE SUPREME PONTIFF, ON THE DAY OF COMMUNION FOR BOTH SEXES,

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JULY 30, IN A SOLEMN AUDIENCE,

ACCORDING TO THE RITE TO BE PROMOTED.

June 26, 1916.

His Holiness, Pope Benedict XV, by divine providence, to whom nothing is more dear than that the decrees of the Holy Council be observed piously and inviolably, and who, following the example of his blessed predecessor, Pope Pius X, at the command of the Council of Trent, has deigned to order the following, having entrusted me, the undersigned Cardinal Secretary of State, with this task, as the anniversary of another most grievous event is approaching:

"All Ordinaries in Europe are to take the utmost care that, in the churches and chapels of their respective dioceses, on the 30th day of the coming month of July, which is a Sunday, all boys and girls of both sexes may, according to the wishes of the Most Blessed Father, approach the Holy Synaxis with a more solemn rite, whatever obstacles may arise."

Given at Rome, on the day, month, and year aforesaid.

P. Card. GASPARRI, Secretary of State.

ACTS, Vol. VIII, No. 7. — 7-7-916. 15

[*Latin ed. p. 218*]

218 ' Acta Apostolicae Sedis - Commentarium Officiale. LETTER TO THE MOST REVEREND PAUL STOLIC, TO WHOM WE WISH INCREASE IN GRACE, THE CURIA OF MONTLEGION, CONGRATULATING HIM ON THE FIFTETH ANNIVERSARY OF HIS ORDINATION AND HIS WORKS FOR THE SOULS OF THE DEPARTED. Beloved Son, health and the apostolic blessing. — There is no more fitting occasion to express Our will to you than on the fiftieth anniversary of your priesthood. For we see that you have not spent this long life in idle pursuits, but rather, along with other – not entirely obscure – proofs of your pastoral diligence, you have especially demonstrated the work that your piety inspired, your prudence fostered, and, with God's help, has increased to such an extent that it has not only spread throughout the land, but, as we hope, will yield a bountiful harvest of fruits everywhere. Indeed, it is a holy and salutary thought to pray for the departed, and we rightly suspect those who – as you, beloved Son, do so diligently – not only pray to God, but also, through the benefits of this pious association, encourage others to show piety towards the dead, so that, by joining and intensifying prayers, and especially through daily penance, they may draw the militant Church closer to the triumphant Church, and almost compel it. In this admirable endeavor, where so many are encouraged to follow, no one can fail to see how much charity shines, not only towards our neighbors, but also towards

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God, and how much hope shines for our brothers, that the merciful God and the blessed brothers may wish to assist them in Christian works of charity even after death, so that they may be granted the most desired reward as soon as possible. Considering these things, we do not merely congratulate you on your long priesthood, but we also embrace with just commendation those fruitful endeavors and undertakings of yours, and at the same time we ask you that, as you have thus far demonstrated the value of these things to both Us and the Church, the pleasant and shortened expectation of them may make you even more zealous in the future. May the divine gifts and, in the meantime, the witness of Our benevolence be the apostolic blessing, which We grant to you, beloved Son, and to your flock.

[*Latin ed. p. 219*]

The Acts of Pope Benedict XV, page 219, and the work which we have praised above, we commend most earnestly in the Lord. Given in Rome, at St. Peter's, on the tenth day of May, in the year 1916, in the second year of Our Pontificate. BENEDICT XV.

TO THE MOST REVEREND AND LORDLY, MR. JANUARY ASPERNATEM GALANTE, APOSTOLIC NOTARY, CANON OF, AND CHAMBERLAIN OF THE CHURCH OF NAPLES; TO WHOM WE OFFER OUR CONGRATULATIONS ON THE CELEBRATION OF THE ANNIVERSARY OF HIS HOLY PRIESTHOOD.

Beloved Son, greetings and the apostolic blessing.

We understand that the anniversary of your priesthood, the fiftieth, is being celebrated by your citizens with great joy and with the consent of all orders, so that this happiness may seem not private, but common and public. For indeed, this most noble city places you among its principal ornaments, who, having contributed not a small measure of intelligence and a wealth of learning to the study of antiquity, and having, through your writings, proven yourself most worthy to the cultivators of this discipline, and having, by exploring the secrets of ancient times, brilliantly illuminated the sacred monuments of Campania for a long time. Moreover, the praise of your learning, which is indeed polished by the elegance of writing, is joined with the integrity of your priestly life. We gladly join in the solemn congratulations offered to you, because we know you to be singularly devoted to Us and to this Apostolic See. And we hope and pray that God may keep you safe for many years, for the honor of your homeland, for the progress of these studies, for the encouragement of the clergy, especially the young, and for the good of souls. As a witness to our auspicious wishes and our paternal benevolence, we impart to you, beloved Son, our most loving apostolic blessing.

Given in Rome, at St. Peter's, on the twenty-sixth day of May, in the year

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1916, in the second year of Our Pontificate. BENEDICT PP. XV.

[*Latin ed. p. 220*]

To the Most Reverend Amadeus Ghizzoni, Canon Theologian of Plasencia: Concerning the Commentary Entitled "The Catholic Catechist."

Beloved Son, greetings and the apostolic blessing. Since it is Our principal duty, stemming from Our apostolic office, to labor and strive that those things which the Lord Jesus Christ revealed and commanded to men may be understood and put into practice by all, We certainly cherish and embrace whatever contributes to this most important purpose. Among these, this commentary should be included, which was composed forty years ago by that Placentinus, the Bishop, John Baptist Scalabrini, renowned for his zeal in spreading the Catechism, and which you have now for a long time diligently and expertly directed. Indeed, over this considerable period of time, We know that this work has greatly benefited the cause of Christianity in Italy, either by promoting and illuminating catechetical gatherings, or by fostering various schools of Religion, adapted to the age and capacity of the students. We ourselves have recognized the exceptional opportunity afforded by both of these things in the Archbishopric of Bologna, where such gatherings and schools have been established.

However, the utility of your commentary is especially commended to Us, because, since it leaves no opportunity unexamined for seriously discussing how our young people and adolescents should be instructed and educated in the duties of religion today, it appears to be excellently done, not only for seeking advancements in this discipline, but also for gradually instilling a likeness to the Christian doctrine that is to be transmitted. Therefore, We are pleased to learn that it has already been adopted by many dioceses, and that it has been so highly praised by some Bishops that it is used by the diocesan council for the care of catechetical matters as an instrument. We hope that, as the author himself devoutly wished, your commentary may increasingly contribute to the advancement of this most holy and salutary work throughout Italy, following the example of others.

You, and all those who share in this work, continue to strive with renewed zeal for the Church and for the salvation of our brothers; and may you receive the apostolic blessing, which We bestow upon you with the greatest affection, as a pledge of divine graces and of Our paternal benevolence.

Given at Rome, near St. Peter, on the 7th day of the month of June, in the second year of Our Pontificate.

BENEDICT XV.

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[*Latin ed. p. 221*]

Acts of Pope Benedict XV, Addressed to the Most Reverend Father Charles Garcia Irioyen, Bishop of Quarten, on the Occasion of the Anniversary of the Founding of the Diocese of Trujillo.

Venerable Brother, greetings and apostolic blessing.

The solemnities which are being held here, as has been reported, mark the exact four hundredth anniversary since, by the authority and grace of the Apostolic See, the Diocese of Trujillo was established; and these are, indeed, matters which we deem worthy of celebration, and by which, we trust, these Our letters may contribute something to the splendor of the occasion. For in all that concerns the commendation and rejoicing, it is common to Us, to the pastor and flock of Trujillo; and in the given benefit, there is both praise and glory, and may praise and glory be to those whom Christian charity compels both of us to hold most dear.

Therefore, it is fitting that, as we begin to write, Our thoughts are not directed solely to you, but also to your ancestors, whose faith and piety, explored by the Apostolic See, have brought about these very rewards and honors for which you rejoice. We do not intend to remind you of matters that are familiar; but we have deliberately mentioned the praises of your Christian ancestors, so that we may seem to urge you, by this very act, not to be wanting in imitation of that which delights us to celebrate. For what is it for Catholic men to recall such auspicious events, if not to remember and celebrate the virtues of their fathers, by which those very things which are commemorated were achieved? And how can it be that, with these things in the minds of the sons, the fathers do not in some way seem to be present, and to urge them, even though deceased, to be vigilant, to persevere in faith, to see that they do not fall away from their holy vocation, and to be holy? Therefore, may the faithful memory of gratitude be so strong among you, that those examples of your ancestors which are worthy of remembrance, may receive not only admiration, but also imitation and emulation.

But there is another duty which cannot be separated from this one. If it is fitting that you conduct these solemnities in such a way that you may strengthen your minds with the memory of the past, and conform your thoughts, it is also fitting that you present the benefits of the Apostolic See in such a way that all of you may be encouraged to greater obedience and to new and more fervent studies in the future. But a longer discourse on this matter is not required, for the inherent character of the Catholics of Trujillo is always ready for every duty, and we are, indeed, moved by love in all that we have touched upon.

[*Latin ed. p. 222*]

222 Acta Apostolicae Sedis - We have deemed it necessary to publish an official commentary, because We believe that you require Our admo-

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nitions and precepts. As for Us, that these secular celebrations may occur not only with joy, but also with benefit to the entire diocese, We pray to Heaven for the abundance of graces, of which the pledge is the apostolic blessing, which We impart most lovingly in the Lord to you, venerable Brother, and to the clergy and people among whom your daily cares flourish. Given in Rome, near St. Peter's, on the eighteenth day of June, in the year 1916, in the second year of Our Pontificate. BENEDICT XV. TO THE REVEREND FATHER SBRAPHINO CIMINO, GENERAL MINISTER OF THE ORDER OF THE FRATI MINORI, AT THE BEGINNING OF THE SEVENTH CENTURY FROM WHICH THE PLENARY INDULGENCE OF THE PORTIUNCULA WAS FIRST GRANTED BY DIVINE AUTHORITY. Beloved Son, health and Our apostolic blessing. - r - As the multitude of the miseries of the common people increases day by day, causing Us great anxiety and concern, We seize every opportunity presented to Us to propitiate the Divine Majesty on behalf of the human race. For, when the people are made miserable by sin, We see the distinction of things in this way: unless, in general, men repent of their faults and, by repenting and leading better lives, reconcile the world with the goodness of God, no hope of salvation seems to remain. Indeed, in order to arouse a desire for either salutary repentance or a more holy life, it is opportune that the glorious gift of divine indulgence, granted seven centuries ago at the request of the blessed Francis, which is called the Portiuncula, should be remembered soon. For no one can participate in this benefit unless he has first duly confessed his sins and completely renounced all love of sin. Furthermore, those who obtain this indulgence are permitted not only to obtain it for themselves, but also for the pious dead in Christ, to whom this very opportunity can bring a wonderful amount of comfort. This, if ever, is certainly opportune at this time, when the greatest barbarity of this war adds countless numbers of souls, addicted to the flames of purgatory, to the daily funeral processions. Therefore, We earnestly desire that throughout the Catholic world, people should go to the sacred Franciscan churches, or to those which...

[*Latin ed. p. 223*]

The Acts of Pope Benedict XV state that a greater number of Christians than usual should gather, for the purpose of obtaining this indulgence. However, this should occur most especially where it was first divinely offered. Therefore, we decree that for the space of an entire year, that is, from the vespers of the first day of the month of August of the coming year, until the sunset of the second day of the same month of the following year, whoever, having been duly confessed and nourished with the heavenly food, approaches the Basilica of Santa Maria degli Angeli in Assisi, and there, for the Church, prays to God according to the mind of the Supreme Pontiff, shall gain a plenary indulgence each time he enters that sanctuary. And in order to enhance the dignity of these observances, We ourselves desire

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to be present through a legate; and We entrust this task to Our beloved son, Cardinal Philip Giustini, whom the Order of the Friars Minor holds in esteem. It is to be hoped that, as many from every land and region approach the birthplace of Saint Francis and the cradle of his institutions, the example of that most holy life and form may again be efficacious in stirring up in men a desire for Christian wisdom and discipline, and especially that fraternal charity, which today languishes so greatly. – As a pledge of heavenly blessings and a testament to Our paternal benevolence, We impart to you, beloved son, and to all your companions, Our most loving apostolic blessing. Given in Rome, near Saint Peter's, on the twenty-ninth day of the month of June, in the year 1916, in the second year of Our pontificate. BENEDICT XV.

[*Latin ed. p. 224*]

Acts of the Apostolic See - Official Commentary, Vol. 88. SACRED CONGREGATION OF BISHOPS. CONSISTORY SESSION I. DECREE CONCERNING THE ALTERATION OF BOUNDARIES OF THE OMAHA AND KEARNEY DIOCESES. Since the Metropolitan and the Bishops of the ecclesiastical province of Dubuque had presented a petition to the Holy See, requesting that the civil counties of Wheeler, Greeley, Howard, and that part of Hall County, which, separated by the Platte River, lies to the north, be transferred from the Diocese of Omaha to the Diocese of Kearney, the Most Holy Pope Benedict XV, having carefully considered all matters, with the advice of the Fathers of this Sacred Congregation and, as necessary, with the consent of those present, granting the aforementioned requests, for the benefit of the faithful and for the growth of the Diocese of Kearney, by the fullness of his authority, decreed that the aforementioned civil counties of Wheeler, Greeley, Howard, and that part of Hall County, as above defined, be taken from the Diocese of Omaha and assigned to the Diocese of Kearney. Furthermore, His Holiness decreed that this be carried out by the Most Reverend Father John Bonzano, titular Archbishop of Melitene and Apostolic Delegate in the United States of America, granting him the necessary and appropriate powers, including the power to delegate, to any person holding ecclesiastical office, to effect what is intended, and to definitively pronounce on any difficulty or opposition that may arise in the execution of this decree, and also imposing upon him the duty of sending to this Sacred Congregation, within six months, a certified copy of the completed execution. Finally, on these matters, the Most Holy Pope ordered that a Consistory Decree be issued: notwithstanding any contrary provisions. Given at Rome, from the offices of the Sacred Congregation, on the 13th of May, 1916. C. CARD. DE L A I, Bishop of

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Sabina, Secretary. L. S. fThomas Boggiani, Archbishop of Edessa, Assessor.

[*Latin ed. p. 225*]

Sacred Congregation of the Consistory, II. PROVISIONS CONCERNING SUCCESSIVE CHURCHES. Following the decrees of the Sacred Congregation of the Consistory, His Holiness, Pope Benedict XV, has provided for the following churches, namely: April 17, 1916. — To the metropolitan church of St. James in Cuba, the Reverend Father Dominic Felix Ambrose Guerra has been appointed, formerly titular Bishop of Hamatha. June 5. — To the cathedral church of Nueva Pamplona, the Reverend Raphael Afanador, general vicar of the diocese of Socorro. June 6. — To the titular church of Bergamo, the Reverend Honorat Halle, archpriest of the Catholic church of Montpellier, whom he appointed as an Auxiliary to the Most Reverend Cardinal Francis of Rovérié de Cabrières, Bishop of Montpellier. June 7. — To the cathedral church of Fanano, the Reverend Justin Sanchini, general vicar of the diocese of Rimini and pastor of the cathedral church. June 19. — To the cathedral church of Rieti, the Reverend Francis Sidoli, canon and archpriest of the church of Piacenza. July 1. — To the cathedral church of Sarsina, the Reverend Ambrose Riccardi, general vicar of Ferentari. July 5. — To the titular episcopal church of Germe, the Reverend John Raynaud, general vicar of Toulouse, whom he appointed as an Auxiliary to the Most Reverend John Augustine Germain, Archbishop of Toulouse. Sacred Congregation for the Propagation of the Faith. APPOINTMENT OF AN APOSTOLIC VICAR. By an apostolic brief, the following was appointed: April 28, 1916. — Apostolic Vicar of Canton, the Reverend Father John Baptist Mary de Guébriant, from the Seminary of Missions in Paris for foreign lands, titular Bishop of Euroea, already Apostolic Vicar of Kiengtchang.

[*Latin ed. p. 226*]

Acts of the Apostolic See - Official Commentary

SACRED CONGREGATION FOR RITES

To Vizagapatam and Nagpur.

The following doubts were presented to the aforementioned Sacred Congregation by the Right Reverend Bishops of the Dioceses of Vizagapatam and Nagpur, who had already received the calendar for use in their respective Dioceses, revised and approved by the Sacred Congregation for Rites, for a suitable solution:

I. Can such a calendar be used by all priests, whether secular or religious, of their Diocese?

II. Must the titulars of the Cathedral Churches and the Patron of India be celebrated by all these priests, with an octave, or without an octave?

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III. Can the Bishops of both Dioceses change the titulars of the Churches, either because they are uncertain, or because they are not approved, or because they do not have a place in the Diocesan calendar?

And the aforementioned Sacred Congregation, having heard the opinion of a special Commission, decided to respond as follows:

To I. The decree concerning local feasts of February 28, 1914, paragraphs I and III, must be observed.

To II. The most recent rubrics must be observed, according to the norm of the Bull *Divino afflatu*, the Roman Breviary, title IX, paragraphs 2 and 3.

To III. Nothing should be changed if it concerns Saints included in the Roman Martyrology or in its approved Supplement. But if it concerns churches that have been consecrated, and uncertain titulars, a list of ancient or new titulars should be presented to the Sacred Congregation for Rites for approval. If the church has not been consecrated or solemnly blessed, the Bishop himself must bless or consecrate it, assigning a mystery or a titular saint according to the rubrics and decrees; keeping in mind that neither churches nor altars can be dedicated to the Blessed.

And thus it responded and declared.

May 5, 1916.

†B. A. CARD. EP. PORTUEN. et S. RUFINAE, SECRETARY OF THE SACRED CONGREGATION.

Alexander Verde, Secretary.

[*Latin ed. p. 227*]

The Most Holy Congregation of Rites, concerning doubts regarding the Votive Mass of the Most Sacred Heart of Jesus and prayers after Mass:

The following solution to the doubts presented to the Sacred Congregation of Rites is explained:

I. Whether the Votive Mass of the Most Sacred Heart of Jesus, granted by Pope Leo XIII for every first Friday of the month, is prohibited in all feasts of the Lord, according to Decree No. 3712 of June 28, 1889; or only in the feasts of Christ the Lord, according to the new Rubrics, Title IV, No. 7, Title VI, No. 4, and according to the notes in Table No. 8?

II. Whether a priest who celebrates Mass in a chapel of a religious community should omit the prayers after Mass, if the community is attending a reading, meditation, or another Mass, or is approaching to receive the Holy Communion, or is reciting prayers in common?

III. Whether it is permissible to omit the prayers at the end of Mass if it is celebrated at the altar of the Blessed Sacrament and the Holy Communion is to be administered immediately after?

And the Sacred Congregation, having heard the opinion of a special

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Commission, decided that the following should be answered:

To I. Negatively, to the first part; affirmatively, to the second part.

To II. Negatively; and in this case, the prescribed prayers should be recited in a low voice, both by the priest celebrating and by the cleric or server, or only by those responding; and the decrees, especially the decree concerning the recitation of prayers at the end of Mass of June 20, 1913, should be observed.

To III. Negatively, according to the aforementioned decree, and in this case, the Holy Eucharist should be administered after the prayers.

And thus it was written and declared, on June 2, 1916.

[Signed]

A. CARD. E. P. PORTUEN. ET S. RUFINAE, S. R. C. Pro-Prefect.

Alexander Verde, Secretary.

[*Latin ed. p. 228*]

Acts of the Apostolic See - Official Commentary III AVIGNON. DECREE OF BEATIFICATION OF THE SISTERS OF THE PERPETUAL ADORATION OF THE MOST HOLY SACRAMENT, KNOWN AS SAINT MATTHAEW, THE HOLY MARTYRS, OF THE CONGREGATION OF THE MOST HOLY SACRAMENT, SISTERS ELISABETH OF THE HOLY HEART OF JESUS, OF THE ORDER OF THE URSULINES, MARTA ROSA, OF THE SAID ORDER, MARIA OF THE TRUE FAITH, KNOWN AS SAINT HENRY, OF THE ORDER OF THE CISTERCIANS, AND TERESIA, OF THE ORDER OF SAINT BENEDICT.

During that grave time for the Republic in France, at the end of the eighteenth century, several decrees were issued, which, disregarding all sense of humanity and religion, and the natural and civil rights of liberty, cruelly persecuted men and women of religious life, under the pretext, however, of a specious form of justice, for the good and benefit of the Republic itself. Among these, it is permissible to mention those issued on the days of August 14 and 17, 1792, and September 17 and December 29, 1793, by which men and women professing a religious life were expelled from their homes and deprived of their goods, and were forced to swear an oath to the infamous laws. Those who refused, as they were gravely suspected, were accused before the judges of being supporters of tyranny and enemies of liberty, first thrown into prison, and then, through a summary judgment, were condemned to death.

Of the countless victims of that calamitous period, now called the Terror, thirty-two religious virgins are now counted, belonging to various religious Orders or Congregations. These, as is said, were killed in the month of July, 1794, in Arouse, within the boundaries of the archdiocese of Avignon. Thirteen of these sisters are from the "Adoration Perpetual of the Most Holy Sacrament," and sixteen are from the Order of the Ursulines,

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residing in the respective monasteries of the city of Abolène, two are from the Order of the Cistercians, and one is from the Order of Saint Benedict.

Of the most prominent from each group, those whose names are mentioned in the title of this cause, are briefly described below.

I. From the Adorers of the Most Holy Sacrament: Sister Iphigenia of Saint Matthew, in the world Francisca de Gaillard, was born in Abolène on September 23, 1761, of parents, John Anthony and Joanna Gabriela de Bouchon, who were distinguished not only by piety but also by nobility. Still a child, she was received into the Monastery of Abolène, of the Adoration Perpetual of the Most Holy Sacrament, and was educated there under the direct guidance of the Sisters, with suitable studies and good morals. At the age of seventeen, on February 11, 1779,

[*Latin ed. p. 229*]

I. Concerning the Sisters of the Society of the Holy Child Jesus: The Congregation of Sisters adopted the habit of their Order, taking the name Iphigenia from Saint Matthew, and in the following year, on February 13th, pronounced their religious vows; and it is testified that she, together with the rules of the Institute, observed them faithfully and constantly. After being expelled from the monastery, she followed the other members into captivity, and, persevering in constant exercises of piety and virtue, she was finally brought before the tribunal. Condemned by the judges, who in vain attempted to shake her faith and constancy, she bravely endured the extreme penalty on July 7th of the year 1794. Then, from the eleventh day to the twenty-sixth day of the same month, for the same reason, the other twelve members of the congregation, adorers of the Most Holy Sacrament, suffered a similar punishment with equal fortitude and courage.

II. Concerning the Ursuline Sisters: The first to be mentioned is Sister Elizabeth Teresa of the Most Sacred Heart of Jesus, in the world Elizabeth Teresa Consolin, born in the village commonly called CourtMzon, on June 16th, 1736, and daughter of John, a lawyer, and Mary Anne Guérin. As a young woman, she embraced the religious life in the monastery of the Ursulines of Sisteron. While the law was being enacted to suppress religious Orders and Congregations, she was in charge of the monastery, and, unwilling to return to her family, nor to submit to the oath prescribed by the unjust law, she was arrested on March 25th of the year 1794, and was held in prison in Avignon for four months. Soon after, she was brought before the tribunal, and when asked by the judges what she was, she replied: "I am a daughter of the Holy Church," and when again asked to take the oath that was demanded of her, she absolutely refused, adding, "that she could not obey human laws rather than divine laws"; and therefore, condemned to death, she died bravely on July 26th, 1794. In the same month and year, the other fifteen members of the Ursuline Monastery of Abolene were condemned with a similar sentence, and they endured death with a brave and

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generous spirit.

III. Concerning the Gistercian Sisters of the Monastery of Saint Catherine in Avignon: Two sisters, deserving of praise, were members of a noble family: Sister Mary of Saint Henry, in the world Margaret Eleanor de Justamond, and Sister Magdalene of the Most Holy Sacrament, in the world Magdalene Francisca de Justamond, who, together with another sister, Dorothea Julia de Justamond, of the Order of the Ursulines, embraced the religious life. The first, Margaret Eleanor, was born in Abolene on January 12th of the year 1746, and pronounced the rule of Saint Bernard on January 12th of the year 1766, in the Monastery of Avignon, from which, together with the others, she was expelled in the year 1790, and returned to Abolene, where she was received into the Ursuline community, as a place of refuge. But in the year 1794, condemned to the capital punishment along with the other nuns, she died piously on July 12th, at the age of forty-eight years. Magdalene of the Most Holy Sacrament, born in Abolene on July 26th of the year 1754, followed her sister, Henry, in religion and in captivity, and preceded her in death.

[*Latin ed. p. 230*]

230 Acta Apostolicae Sedis - Official Commentary. After having declared that she had obtained eternal life through the temporal life and by the sentence of the judge, she completed her sacrifice on the 11th of July, in the forty-fourth year of her age. - IV. Concerning the Benedictine Sisters. Finally, there remains something to mention concerning the only nun of the Order of Saint Benedict, who, although she is the last to be mentioned, was the first among the religious women who appeared before the popular commission, in order to be handed over to death. She is Sister Mary Rose, in the world Susanna Agatha de Loye, who was born in Serignan, near Agde, on February 4, 1741, to parents named John Alexis and Susanna Janclair. At the age of almost twenty years, she entered the Benedictine monastery in the town of Caderousse, where she bound herself to God with religious vows on January 14, 1762, and remained there until the suppression of the monastery. Then she returned to her parental home, from which, being recognized as a religious and forcibly taken away, she was brought to Agde. After about two months of captivity, when she refused to take an oath of liberty and equality, on July 6, 1794, in the forty-fourth year of her age, she suffered the sentence of death and punishment. When the fame of the sanctity and martyrdom of these thirty-two Servants of God grew more and more each day, an Informative Process concerning such fame was instituted in the ecclesiastical court of Avignon, with the authority of the Ordinary. After this was completed and sent to Rome to the Congregation of Sacred Rites, and when nothing stood in the way of proceeding further, at the urgent request of the Reverend Father Joseph Meftre, Apostolic Protonotary and promoter of this cause, and with the attention

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given to the petitionary letters of certain Eminences of the Holy Roman Church, of many Holy Prelates, as well as of the Chapter and Clergy of the Archdiocese of Avignon and of other cathedral churches and dioceses, and of Orders and religious Congregations, especially those pertaining to the aforementioned servants of God, and of other notable men and women, His Eminence and Reverend Cardinal Vincent Vannutelli, Bishop of Ostia and Palestrina, Dean of the Sacred College, and Promoter or Relator of this cause, proposed the following question to be discussed in the ordinary meetings of the Congregation of Sacred Rites, convened on a designated day at the Vatican: Whether a Commission for the introduction of the cause should be appointed in this case and for the purpose of which we are speaking? And the Eminent and Reverend Fathers presiding over the Sacred Rites, after the report of the Eminent Cardinal Promoter, having heard the voice and the written testimony of the Reverend Father Angelo Mariani, Promoter of the Holy Faith, after carefully considering all things, they judged it necessary to respond: Affirmative, that is, that a Commission for the introduction of the cause of the thirty-two Servants of God should be appointed, namely: From the Congregation of Sisters of Perpetual Adoration: Sister Iphigenia of Saint Matthew, in the world Francisca de Gaillard; Sister of Saint Pelagia, in the world...

[*Latin ed. p. 231*]

231: Reverend Mother Rosalia Bès; Sister of the Most Holy Theotista, in the world Maria Pelissier; Sister of Saint Martin, in the world Maria Clara Blanc; Sister Rosa of Saint Xavier, in the world Magdalena Talieu; Sister Martha of the Angelic Bono, in the world Maria Cluse; Sister Magdalena of the Mother of God, in the world Elisabeth Verchière; Sister of the Annunciation, in the world Teresia Henrica Faurie; Sister of Saint Alexis, in the world Anna Andrea Minutte; Sister Beloved of Jesus, in the world Margarita Rosa de Gordon; Sister Mary of Jesus, in the world Margarita Teresia Charransol; Sister of Saint Joachim, in the world Maria Anna Béguin-Royal, and Sister of Saint Augustine, in the world Margarita Bonnet. - From the Order of the Ursulines: Sister Elisabeth of the Sacred Heart of Jesus, in the world Elisabeth Teresia Consolin; Sister Mary of the Angels, in the world Maria Anna Margarita de Rocher; Sister Dorothea of the Sacred Heart of Mary Virgin, in the world Dorothea Magdalena Julia de Justamond; Sister Catherine of Jesus, in the world Maria Magdalena de Justamond; Sister Francisca, in the world Maria Anna Depeyre; Sister of Saint Sophia, in the world Maria Margarita de Berbegie d'Albarède; Sister Agnes of Saint Louis, in the world Sylvia Agnes de Romillon; Sister of Saint Bernard, in the world Joanna Maria de Romillon; Sister of Saint Basil, in the world Anna Cartier; Sister of Saint Melania, in the world Maria Anna Magdalena de Guilhermier; Sister of Saint Sophia, in the world Maria Gertrudes de Ripert d'Alauzier; Sister of Saint Francis, in the world Maria Anna Lambert; Sister of Saint Gervasius,

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in the world Maria Anna Anastasia de Roquard; Sister of Saint Michael, in the world Maria Anna Doux; Sister of Saint Andrew, in the world Maria Rosa Laye, and Sister of Saint Rosalia, in the world Maria Clara Dubac. - From the Order of the Cistercians: Sister Mary of Saint Henry, in the world Margarita Eleonora de Justamond, and Sister Magdalena of the Most Holy Sacrament, in the world Magdalena Francisca de Justamond. - Finally, from the Order of Saint Benedict: Sister Mary Rosa, in the world Susanna Agatha de Loye. On June 6th of the year 1916. Afterward, these matters were presented to our most holy Lord Benedict XV by the undersigned Cardinal, Prefect of the Congregation of Sacred Rites, in a report. His Holiness, having approved the opinion of the same Sacred Council, deigned to sign with his own hand the commission for the introduction of the cause of beatification or declaration of martyrdom of the aforementioned thirty-two Servants of God, Sisters Iphigenia of Saint Matthew, Elisabeth Teresia of the Sacred Heart of Jesus, Mary of Saint Henry, Mary Rosa, and Companions, on the 14th day of the same month and year. A. CARD. E P. PORTUEN. ET S. R. U. F., S. B. C. Prefect. L. S. Alexander Verde, Secretary.

[*Latin ed. p. 232*]

Acts of the Apostolic See - Official Commentary

ACTS OF THE SACRED ROMAN ROTA

In the matter of Claramontana - Restitution.

Under the blessed reign of Pope Benedict XV, in the first year of his pontificate, on the 16th of August, 1915, the Most Reverend Fathers, Doctors Aloysius Sincero, President, Joseph Mori, and Frederick Cattani, Auditors of Tournon, in the cause of Claramontana - Restitution, between the Lady Antonia Debrige, an actress, represented by her lawful procurators, the Reverend Mr. Albert Colomb, and Mr. Angel D'Alessandri, and the Congregation of Sisters of Saint Joseph, commonly known as the Good Shepherd, or its General Superioress, convened, pronounced the following final judgment.

Lady Antonia Debrige petitioned the Supreme Pontiff that he might institute a cause before the Sacred Roman Rota against the Sister of Saint Celestine, a religious of the Congregation of Saint Joseph, commonly known as the Good Shepherd, who resides in the city of Claramontana, and against the aforementioned Congregation, or its General Superioress, for the purpose of obtaining restitution of a certain sum of money which she had given to the aforementioned Sister of Saint Celestine.

The cause was initially brought before the Sacred Roman Rota by commission; but before this Tribunal, the Sister of Saint Celestine, not having been summoned, the cause was presented under this doubt, agreed upon by the parties: Whether the Congregation of Sisters of Saint Joseph,

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commonly known as the Good Shepherd, is obligated to repay the sum of money which the Sister of Saint Celestine received from Lady Antonia Debrige.

The facts of the case are as follows:

Lady Antonia Debrige, born on the 5th of April, 1880, in her advanced years, frequented the schools of the religious house of the Congregation of Sisters of Saint Joseph, commonly known as the Good Shepherd, in the city of Claramontana, and had as her teacher the Sister of Saint Celestine of the same Congregation.

[*Latin ed. p. 233*]

The Roman Rota, Session 233. In the year 1892, she was orphaned, and her three children, including one in Antoing, were entrusted to the care of the Sister of St. Celestine, with a guardian appointed. Therefore, when Antonia reached the age of twelve, she entered the religious house of the Congregation of the Sisters of St. Joseph, in order to be educated there, paying a price for lodging and meals, and she remained there until she became of her own free will, and then left the religious house. After spending almost a full year outside the religious house, she returned and requested to enter on May 20, 1902, and was accepted on January 22, 1903; and in 1909, after having made her profession, she left the religious house. In the year 1912, Antonia approached the Superior General of the Congregation of the Sisters of St. Joseph and revealed to her that she had lent large sums of money to the Sister of St. Celestine, who had abused her inexperience and familiarity, and she requested that the Superior General, by her authority, summon the Sister of St. Celestine to confess the debt and to sign promissory notes. Therefore, the Sister of St. Celestine signed promissory notes on November 5, 1912, in which she acknowledged that she owed Antonia Debrige the sum of twenty-three thousand livres, along with four livres of interest for each hundred. In the meantime, the Sister of St. Celestine had been expelled from the religious house on October 30, 1912, due to her conduct. When Leonia Saliège, formerly the Sister of St. Celestine, refused to return the debt, and was unable to pay, Antonia Debrige approached the Superior General, in order to have the Sister of St. Celestine's debt paid; and when this was denied, the Congregation itself was brought to court. Therefore, for two reasons, the Patrons of the plaintiff argue that the Congregation is obligated in this case to restore the money that Antonia lent to the Sister of St. Celestine, namely, first, because the monastery or convent is held in civil cases in the place of the subject or religious, and second, because in this case, the damage that Antonia suffered is imputable to the Superiors of the same Congregation due to their negligence. As for the right. Regarding the first point, the Patrons of the plaintiff argue: the case concerns a completely certain credit, because there are the confession of the debtor, the Sister of St. Celestine, before the Superior, and promissory notes

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in which the Sister herself confirms the confession, and openly declares that she is indebted to Antonia Debrige in the sum of twenty-three thousand livres. But a religious woman who lived in a monastery contracted a debt; therefore, the action belongs to Antonia in the very ACTA, TOI. VIII, n. 7. — 7-7-916. 16

[*Latin ed. p. 234*]

234 Acta Apostolicae Sedis - Official Commentary on the Monastery, which is legally a peaceful entity: "In civil matters, the Religious is not to be summoned, but the Monastery itself." Thus, the Glossa on Canon 11, question 1, article 1, and the Archdeacon, ibid., number 6; the Speculator, title on the Accused, number 19, and others. The reason is clear: "because a monk or Religious who has solemnly professed has nothing of his own (canon Non dicatis, 12, question 1), but whatever he acquires, for example, through inheritance or otherwise, he acquires it for the Monastery (Auth. ingressi, G. Episcop. et Gleric, and canon Quia ingredientibus, 19, question 3, and c. Quanto, 7, de offic. Ordinar., and c. Cum ad Monasterium, 6, de statu Monach.); therefore, in civil matters, it is he, and he must be summoned and can be summoned, but the Monastery." Thus, Reiffenstuel, book II, decrees, title I, number 183, with common opinion. However, these principles of law, which apply to those Religious who have solemnly professed, cannot be applied to Religious who have only taken simple vows. The reason why a Religious who has solemnly professed, but not the Monastery itself, can and must be summoned in civil matters is because those Religious who have solemnly professed "by the vow they have made, are no longer under their own jurisdiction, and are likened to 'servi' who, under Roman law, lacked personal legal capacity." (Sebastiani, de Judic, page 25, number 16, with common opinion). But "a simple vow of poverty only deprives [one] of the right to enjoy and retain [property] (without the permission of superiors), but not of the ownership of things, or at least of the capacity to own them" (Aichner, Ius eccl., § 135, number 2). Therefore, Religious who have only taken simple vows retain legal capacity or juridical personality, and for this reason, in obligations contracted by them, they themselves, and not the congregation, can and must be summoned, all other things being equal. It is not possible in the present matter to extend this principle from case to case; for the reason is entirely different, and "what is contrary to common law cannot be extended by consequence" (28 de R. 1., in 6°). Therefore, an action brought against the Congregation, especially as in this case, where the Sister of St. Celestine was overlooked, is not legitimate. It is indeed certain that the Congregation of the Sisters of St. Joseph is a Congregation of those who have taken simple vows. And in article 102 of the Rules of this Institute, it is expressly stated: "The vow of poverty, as it is taken in the Congregation, does not destroy the right to possess..." It cannot be objected that, through a mutual contract between

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the Sister of St. Celestine and Antoniam Debrige, the consent of the Superiors of the Congregation was obtained. For, firstly, it must be noted that the consent of the Superiors of Congregations of those who have taken simple vows does indeed remove an obstacle to contracting, but does not, by itself, obligate the Congregation itself, unless the consent explicitly, or at least from the circumstances, takes on the nature of a mandate. Regarding the matter of the Holy See's regulations concerning Religious in the diocese or Order of X, which obligate...

[*Latin ed. p. 235*]

The Roman Rota, session 235, August 15, 1914: "It is now known and beyond dispute that the author intends to perform some act, granted to one who, by the disposition of the law, cannot perform it without it, but who, nevertheless, has his own personality, and therefore can acquire [rights] for himself, removing the objection that that entity or person had to performing that act, but it does not provide a guarantee on the part of the authorizing person" (Acta Apostolicae Sedis, vol. VII, p. 110). Therefore, since religious congregations of simple vows retain, by common canon law, their own legal personality, even if it were the case that, in the instance of consent given by the Superiors or the General Superior of the Congregation of the Sisters of Saint Joseph (Reg. Instit., 105), to a Sister of Saint Celestine, so that she might contract a loan, it would not necessarily follow that the congregation itself or the religious house is bound by the loan, or is obligated to repay the loan. And this is confirmed by the argument from the contrary, from what is stated in the same decision regarding religious of solemn vows: "These, as mentioned above (p. 108), have neither the will nor the refusal, and therefore have no legal personality, nor can the Superiors confer it upon them, because it would be contrary to their vows. Therefore, the theory presented cannot be applied; rather, the authorization given by the Superior to a religious to buy or sell, or for other similar transactions, instead takes on the nature of a mandate. And the religious, in the exercise of this act, becomes like the administrator of the convent, or the province, or the order that has authorized him for this purpose, from which it logically and necessarily follows that it is not the religious, but the convent, or the province, or the order that must be held responsible for the operation" (Ibid., p. 110). Therefore, in congregations of simple vows, the consent of the Superior for the performance of some legal business, by itself, does not constitute a mandate; but it must be deduced from the tenor of the license granted, or from the particular circumstances of the legal business itself, for example, if, from the circumstances of the matter, it appears that the religious, knowingly and with the approval of the Superior, is contracting for the good and benefit of the congregation itself and in its name, or something similar. This, in general. In particular, the consent that is asserted must be proven; it cannot be presumed or assumed by itself. For in

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the case in question, the loans were contracted not publicly and openly, but secretly, by Antonia Debrige, with the Sister of Saint Celestine, in violation of the law of secrecy. And what is stated in the cited decision of the Sacred Congregation of Religious (p. 108) is consistent, where the public and open exercise of commerce or industry by a religious is considered evidence of the presumed consent of his Superiors. Conversely, where the legal business is not public, the consent of the Superiors cannot be presumed by itself.

[*Latin ed. p. 236*]

236 Acta Apostolicae Sedis - Commentarium Officiale.

On the other hand, the act of the patroness, Antoinette Debrige, appears to have rightly and justly presumed the consent of the Superiors, since, as they themselves assert, the Mistress of the Novices was not entirely ignorant of the manner in which Sister of Saint Celestine acted; for she was, they say, in charge of Antoinette's revenues and titles, and once, on the occasion of a certain sale of a title, she entrusted the business to Sister of Saint Celestine. But they affirm only this, and do not equally prove it. On the contrary, the Bishop declares: "The Mistress of the Novices did not know exactly the financial condition of Antoinette Debrige, and only knew that before entering the Novitiate, Antoinette had entrusted her interests to a notary who had received her accounts as guardian, and with whom her brother was a cleric." Furthermore: "During the first year of her stay in the boarding school for secular sisters, and even during the second year, she had quite frequent dealings with the Mistress of the Novices, but never spoke to her about her loans to Sister St-Celestine. She did know, however, that novices should do nothing without permission, and she was also aware that the Mistress of the Novices, daughter and sister of a notary, and who had, for several years, been involved in business matters, could give her useful advice." Moreover, from the records and documents presented in the case, it does not appear at what definite time Antoinette lent money to Sister of Saint Celestine, whether during her minority, or after she became of age, whether while residing in the religious house, or during the customary holidays, as frequently, she spent outside the religious house, whether immediately before her novitiate, which she almost entirely spent in the world, or during the time of her novitiate. Indeed, if we admit, as it seems permissible to infer from the arguments of the patroness's counsel as previously related, that Antoinette lent money to Sister of Saint Celestine during her novitiate, she then should have known the rules of the Institute, according to which (Rules 104, 106) a Religious may not incur a debt without the consent of the Superior. Therefore, since no one should be ignorant of the condition of the person with whom they contract, she must be held responsible if she imprudently did not investigate whether Sister of Saint Celestine was contracting with the consent of the Superior, or not. This imprudence was committed by Antoinette herself; for she wrote to the Superior: "...after all,

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there has been a formal abuse of trust on her part, and on my part, there has been an imprudent weakness for which I should suffer the consequences." Therefore, the damage which she suffers due to her own fault, should be attributed to her, not to others (86 of the Regulations, n. 6°). And this is not enough. For the Superior, in her letters to Antoinette dated October 15, 1913, affirmed that Sister of Saint Celestine had not requested permission to incur the debt, and that the debt contracted by her was entirely unknown to the Superiors, and that Antoinette had received no advice.

[*Latin ed. p. 237*]

The Roman Rota has requested information and has provided funds on loan to Sister of St. Celestine, not as a religious, but as a friend to her family: "considered by you not as 'a religious,' but as a friend of your family... a religious acts for her family, or for families of friends, and of which the Congregation 'has not at all profited.'" Antoing, writing on October 17th to the Superior, did not deny this, but only affirmed that the Superior had recognized, in a conversation held with her on September 22, 1913, that "your responsibility was engaged to a certain extent," (which, however, the Superior explicitly denies in her letters dated October 24, 1913), and she cited the opinion of certain canonists, according to whom "the Congregation is responsible for the actions and deeds of the religious, both men and women, for as long as they are part of it."

Regarding the second argument, the Patrons reason as follows: "It is a principle of law that no penalty is imposed without guilt; but any wrongdoer is held liable for damages resulting from his wrongful and culpable action. It must be the case that the damage was indeed caused, and that the action in question is the effective cause of that damage itself; in other words, the wrongdoer must be culpable; therefore, in order for the monastery in question to be condemned to restitution, it is necessary that some degree of fault be present..."

Furthermore, it is beyond all doubt that the Superior of the monastery is bound, by her office, to govern her subordinates, and therefore is also bound by justice to prevent them from harming others; thus, if a prelate or Superior fails in this, they themselves are liable, to the extent of their fault, to repair the damage that someone has suffered through their negligence. In this case, the Patrons argue, it is clear that the Superior's negligence in investigating and supervising, especially with regard to Sister of St. Celestine, who, as the Superior herself knew, required correction and supervision, was the cause and reason for the damage suffered by Antonia Debrige.

It must also be noted that the mistress of the novices must have known something about the manner in which Sister of St. Celestine treated Antonia Debrige, for at least once, "she seems to have seen." Indeed, she was the one who kept Antonia's titles and income, and at times she expressly entrusted to Sister of St. Celestine the task of selling a title, from which

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Antonia received a smaller sum than the title represented, and from which sale Sister of St. Celestine obtained a profit. Therefore, the responsibility of the monastery is all the greater, because ignorance cannot even serve as an excuse.

Therefore, the Patrons, as is clear from the argument presented above, believe that the Congregation, or the Superior, is also liable for the damage, as they say, "here."

[*Latin ed. p. 238*]

238 Acta Apostolicae Sedis - Official Commentary by Mancio. Whether she is deceived regarding the loan, the damage is scarcely understood, and in fact, not at all. Antonia Debrige has suffered neither injury nor damage, because she delivered the borrowed money to the Sister of St. Celestine, but because the Sister of St. Celestine did not repay the borrowed money; in this case, it is not a matter of *aquilian* damage, but of *contractual* damage, as they call it. If the Patron claims that the Sister of St. Celestine, either by force or deceit, induced Antonia to enter into the loan agreement, or even, as they sometimes suggest, extorted money from her through malice and fraud, then the Patron must not only fully and legally prove this, but also the *conreptum*, as they say, or at least the fault or negligence of the Superiors of the Congregation; nor are indications, conjectures, and presumptions sufficient, especially because the Sister of St. Celestine contracted the loan secretly and received the money, a fact unknown to Antonia. But, from what has been presented so far in the legal case, there is no proof. Finally, it must be considered whether the Congregation of the Sisters of St. Joseph, setting aside any fault, is obligated in the case that the borrowed money was converted to the benefit of the Congregation (cf. *Codex*, on guarantors), since equity prohibits anyone from enriching themselves with another's property; in this way, the Congregation would be obligated to repay the entire money itself, but only the amount by which it was enriched. However, it is not proven from the documents and evidence presented in the case that the borrowed money was, in whole or in part, converted to the benefit of the Congregation; for the Superiors state that the Sister of St. Celestine received the money "for her family" or "for families of friends." The Bishop of Claramont declares that he received from the Sister of St. Celestine "what she had borrowed to extricate her nephew, Mr. Henry Debrige, from a very serious difficulty..." Mr. Henry Debrige denies this. However, setting aside the question of whether the borrowed money was converted to the benefit of Henry Debrige or not, it is certainly not legally proven from the documents and evidence presented in the case that the borrowed money was converted to the benefit of the Congregation itself. After duly considering both the facts and the law, We, the undersigned Auditors sitting for the Tribunal, invoking the name of Christ, and with God alone before our eyes, answer the proposed question: Negatively, that

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is, from what has been presented in the case, the Congregation of the Sisters of St. Joseph, commonly known as the Good Shepherd, is not obligated to repay the money that Lady Antonia Debrige had with the Sister of St. Celestine. We order that the expenses be compensated between the parties. Thus we pronounce and definitively sentence, ordering the Ordinary of the place and the officials of the Tribunal to whom it pertains, to carry out the execution.

[*Latin ed. p. 239*]

239 The Roman Rota renders this judgment, and against those who resist, it shall proceed according to the norms of the sacred canons, and especially chapter 3, session 25, concerning appeals, of the Council of Trent, employing executive and coercive means, which shall be more efficacious and suitable for the circumstances. In Rome, at the seat of the Tribunal of the Holy Roman Rota, on the 16th of August, 1915. Aloysius Sincero, President. Joseph Mori. Frederick Cattani. L. C. S. From the Chancery of the Holy Roman Rota, on the 6th of November, 1915. Sac. T. Tani, Notary.

II. CONCERNING THE COLLATION OF A BENEFICE.

During the reign of His Holiness Benedict XV, in the second year of his glorious pontificate, on the 10th of May, 1916, the Pontifical Commission, composed of the Most Reverend Monsignors Guglielmo Sebastiani, Dean of the Holy Roman Rota, Frederick Cattani-Amadori, and Pietro Rossetti, Auditors of the same Tribunal, in the case concerning the Dataria Apostolica and the Chapter of the Vatican, regarding the collation of a benefice that had become vacant in the Basilica of the Vatican, issued the following definitive sentence.

On the 10th of November, 1914, the Reverend Father Frederick Savignoni, a cleric holding a benefice in the Basilica of the Vatican, died in Montefiascone. And since the Reverend Chapter, among the many privileges of which it enjoys, also possesses the privilege of conferring minor benefices of the Basilica itself, which become vacant through the death of the holder in Rome, in any month of the year, Monsignor Ascenzo Dandini, Canon in turno, appointed the priest, Father Bernardino Bocchini, to the benefice previously held by Savignoni, a priest who had been incardinated to the Basilica for approximately 23 years and was enrolled among the clerics serving the Chapter.

This appointment was challenged by the Dataria Apostolica, not only because it considered the benefice in question to be reserved, but also because it had been conferred upon a cleric who was not Roman, contrary to

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the provisions of the Bull *Dum singularem* of Pope Leo X.

[*Latin ed. p. 240*]

240 Acta Apostolicae Sedis - Commentarium Officiale. Such a question arose, and it was fitting that it be resolved. To this end, the Holiness of His Most Holy Father Benedict XV, blessed Pope, with a letter from the Secretariat of State dated July 19, 1915, appointed the aforementioned Commission, to which He granted full powers to definitively judge this controversy and to issue a judgment *iure servato*. Following this appointment, the interested parties, duly summoned in the persons of Monsignor Giuseppe Guerri, Prefect of the Apostolic Datary, and Monsignor Ascenzo Dandini, representing the Venerable Chapter of the Vatican, appeared before the aforementioned Commission, and by mutual agreement, contested the dispute based on the following doubt: "Whether, given the Bull *Ad honorandam*, the faculty that the Chapter of the Vatican has to confer vacant benefices in its Basilica is subject to the reservation of months contained in Rule IX of the Apostolic Constitution, as well as to the disposition of the Bull *Dum singularem* of Pope Leo X." Having established this, the Venerable Chapter of the Vatican, not denying the action undertaken by Monsignor Dandini, but rather fully confirming it, in order to be more certain of the protection of its rights, wished to intervene directly in the judgment. Therefore, in the Chapter meeting of January 9, 1916, it appointed a Commission composed of three Canons, which would legally support its arguments in the specific case. Indeed, this Commission requested the intervention of the Pontifical Commission in the matter; an intervention which was readily granted. With a letter dated February 15, 1916, the Pontifical Commission notified the contending parties that they were granted a reasonable time until the 29th of the same month to submit and present whatever they deemed necessary and useful in their respective interests; with the warning that, after the deadline, the proceedings would continue. But the Venerable Chapter, considering this time insufficient to prepare its arguments, requested an extension with a letter dated February 21, 1916; an extension which was readily granted on February 22 until March 20. Now, having both contending parties submitted in writing their respective arguments, which have been exchanged and notified, and having determined that they have nothing further to add, the Pontifical Commission has considered the period of investigation to be closed and has proceeded to examine the question until the resolution of the doubt proposed. It is certain that the Venerable Chapter of the Vatican, in virtue of its privileges, has the right to confer the lesser benefices of the Basilica that are vacant.

[*Latin ed. p. 241*]

The Roman Rota, in its judgments, and the Curia, throughout all the months of the year, except when there are reservations or apostolic affairs

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pending; and it has the right to confer them, even if the vacancy of a benefice occurs outside the Curia during the four months granted to the Ordinaries of the Dioceses. Indeed, the aforementioned Chapter, in all these cases, confers the benefices without difficulty from the Dataria, alternately, one week by the Eminence, the Cardinal Archpriest of the Chapter, and another week by the Canon of turno. However, this is not the case if the vacancy of the benefice occurs outside of Rome during the eight papal months. This is in virtue of Rule IX of the Apostolic Chancery, which, with a general formula, reserves, without any exception whatsoever, all benefices of any kind, wherever they may exist, and belonging to any Church, even those worthy of special mention, such as the Patriarchal Churches of Rome, including the Vaticana, stating in this Rule that "all ecclesiastical benefices, with or without cure, secular and those of any order, whatever their qualification and wherever they may exist, in the months of January, February, April, May, July, August, October, and November, outside the Roman Curia, otherwise than by resignation... whatever the manner in which they may become vacant, are reserved for collation... of those who may be collated... in any manner whatsoever." In this sense, Rule IX was authentically interpreted and applied by two Supreme Pontiffs, Alexander VII and Clement XI, in cases identical to our own. In 1663, Alexander VII, with his Motu Proprio, conferred a benefice "with the declaration... that the rule 'reserving benefices of any kind and wherever they may exist outside the Roman Curia' applies also to benefices of the City [of Rome], with regard to the collation of inferior collators, even if the benefice becomes vacant within the district of the City, or within two diets, as is also practiced in Episcopal districts." And Clement XI, in 1700, with another of his Motu Proprios, confirmed the decision of Alexander VII and added: "As in the present, so in the future, we wish and declare that the said benefices of the City, with regard to the collation of inferior collators, which become vacant outside the Roman Curia, are forever reserved to us and to the Apostolic See (these benefices) are reserved." In this regard, Monsignor Dandini also states: "If the question now arising were to be resolved solely by the ancient rules of the Chancery and the Bull of Leo X, which are common to all the Basilicas of Rome, would it not be prudent for the Chapter to resign, considering how impressive are the two decisions given against the Chapter and reported by Riganti, Vol. II" (Response to the reply of the Apostolic Dataria, p. 1).

[*Latin ed. p. 242*]

Acta Apostolicae Sedis - Official Commentary. Therefore, in order to support the disputed right, he believed it necessary to found it on a more solid basis, namely, on the Bull of Benedict XIV, *Ad honorandam*, of March 27, 1752; and he said: "The single text for the Basilica Vaticana is the aforementioned Bull, which can truly be called its *Lex propria*: according to

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this special law, which is still in force, the Benefices of the Vaticana must be conferred, and not according to the general law of the Apostolic Chancery" (I.e., p. 2). However, the aforementioned Canon is wrongly applied, because Benedict XIV, with the aforementioned Bull, did not make any modifications to the previous regulations, as far as the conferral of Benefices is concerned. In truth, it must first be noted that Rule IX requires an express and explicit derogation, without which it loses none of its value. Now, although in the Bull *Ad honorandam* one reads a very general derogatory formula: "Par. 67. Notwithstanding Our and the Apostolic Chancery's Regulations, as far as it may be necessary, without prejudice to any right in question," it is not such that it is sufficient to establish the requested derogation: "under the clause *Non obstantibus Constitutionibus et Ordinationibus Apostolicis Regularum Cancellariae Constitutionibus non comprehenduntur, neque istis censetur derogatum nisi de iis specialis mentio fiat*" (Reiffenst., HI, tit. V, n. 491); and more explicitly, the Rota (Dec. 592, n. 6, p. 3, Recent.) states: "It seemed necessary to add that, as far as it is alleged that a right to confer Benefices in reserved months had been granted, a special derogation of Rule IX was necessary, as has been repeatedly decided in the Rota, as testified by Sarnen, Pram., Reg. IX, qu. 5, n. 2." Indeed, the expressions of Rule IX regarding this matter are clear: "Wishing that in supplications or concessions of *gratiarum*, which are made regarding the aforementioned Benefices, even with a *Motu Proprio*, mention be expressly made of the month in which they became vacant; otherwise, the *gratias* are to be considered null, and that even more considerable and important customary dues, as well as privileges, even those granted at the very beginning of their establishment, and indulgences granted by the Apostolic See regarding them, and also regulations regarding Benefices of this kind, or that they are never included under such a reservation, even with any derogatory clauses, however strong, effective, and unusual, or with other decrees, are to be considered and extended in the widest sense to any persons, in any way granted against such a reservation, to be of no avail whatsoever." This special derogation, moreover,

[*Latin ed. p. 243*]

The Roman Rota, number 243, is also required, and much more clearly, by Rule 71 of the Apostolic Chancery: "His Holiness has decreed and declared that in all rules and regulations issued and published by the Chancery in its time, it shall never be considered that any derogation has been made in any Constitutions, Letters, Briefs, Indulgences, and other Apostolic Ordinances, even those issued *motu proprio* and with certain knowledge, by any words and decrees of derogation, invalidation, universality, and the widest scope, and by clauses, however efficacious, even those with a derogatory effect, and with a special and individual meaning, unless express mention has been made of them, and in no other

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way or manner." Therefore, Riganti comments: "Each Chancery Rule, in order to be considered as having been derogated from, requires a specific and express mention, and the widest clauses are not sufficient... Therefore, even if the clause 'Notwithstanding the Rules of the Chancery, the tenor of which...' precedes, the individual expression of those rules, and operates more broadly: ... nevertheless, today it is by no means suitable to introduce a derogation to the Rules. Especially because this Rule (71) uses the clause 'and in no other way or manner' after the prescribed method by which the Chancery Rules must be derogated, which creates a form that must be precisely observed, and renders invalid and null anything that has been done to the contrary outside of the prescribed method..." (Ad Reg. 71, n. 20). Therefore, Rule 71 of the Apostolic Chancery imposes upon interpreters and judges a presumption, not only of law, but of law and in law, to be followed as a norm, when it is a matter of judging whether a Pontiff has, or has not, derogated from any Rule of the Chancery; and particularly from Rule IX. Thus, Riganti (loc. cit., n. 7): "It cannot be said that the power to confer benefits vacant in the months reserved to the Apostolic See, is granted in exclusion of Rule IX, unless the aforementioned Rule has been specifically and expressly derogated from, especially because it is found to be endowed with the widest clauses" (Cf. Lotter, *De re Benef.*, lib. 2, qu. 89, nn. 18, 19; Rota, Dec. 569, n. 7, p. Recent., and in Barcinonen., Beneficii 7 aprilis 1689, par. Similarly, before Mattha). Furthermore, what this esteemed author (Riganti) had written was not only well known to Pope Benedict XIV, but was also held in great esteem by him, to the point that he gladly made use of it. "We gladly make use of the authority of this author (Riganti)... and we are witnesses to the incredible labor and diligence in collecting and discussing all that he inserted in his works" (De Synod. Dioeces., lib. IX, cap. VII, n. 6). Therefore, we can be certain that if Benedict XIV had truly wished to derogate in our case from Rule IX, he would have done so.

[*Latin ed. p. 244*]

The Acts of the Apostolic See – Official Commentary – used expressions that would leave no doubt; that is, it would have used a special derogatory formula as required. And since this was not done, Rule IX remains in full force. After this observation, the answer to the difficulty raised in the Addendum to the memorial presented by the Vatican Chapter becomes clear, which requires that, in the case of a privilege *praeter ius*, it is necessary to uphold the disputed right, applying the rule *favor convenit ampliari*. For if it is true that, in this case, the privilege is of broad interpretation, it is also true that such interpretation, however broad, can never encompass those cases for which an express derogation is required, if such derogation is lacking. This is especially true when the intention of the Pontiff is clearly apparent, since interpretation takes place in doubtful matters: "for if the

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words are clear, they admit of no interpretation" (D'Annibale, *Summa Theologica*, I, n. 228). Now, in the Bull *Ad honorandam*, as the required derogation is lacking, so too is the mind of the Pontiff apparent, as will be seen below. After this, the Commission proceeded to examine what had been presented by the Reverend Chapter, to demonstrate its claimed right. It was stated that the intention of the Pontiff in the Bull *Ad honorandam* was to expand the privileges and rights of the Vatican Chapter in the collation of Benefices, and that this implies extending them to cases previously excluded, and therefore also to the case of a vacancy *extra Curiam Romanam* during some of the papal months. "If the firm and precise will of the Pontiff was 'to expand the rights of the Vatican Chapter in the collation of Vatican Benefices,' in what would this expansion consist if not in 'having eliminated that reservation concerning death *extra urbem*, but instead 'having maintained it!'" (Dandini, *loc. cit.*, p. 5). And to further corroborate the argument, it was added that the Pontiff, in expanding the rights of the Chapter, made only one exception, that is, he excepted only those benefices affected and reserved *ex persona*, outside of which no other reservation was maintained. "The fact of having mentioned 'this single reservation' means that this single one was intended to be maintained and 'the other excluded,' which had repeatedly given rise to 'litigation between the Chapter and the Dataria'" (*loc. cit.*). But, even setting aside the argument presented above, neither reason can be considered conclusive. As for the first reason, the Pontifical Commission observes that in paragraph 39 of the Bull *Ad honorandam*, Pope Benedict XIV certainly intended to expand the rights of the Vatican Chapter, and in fact did expand them; but – with respect to the collation of Benefices.

[*Latin ed. p. 245*]

The Roman Rota remained as it had been until then. Indeed, it is written there: "We have decreed to grant, confirm, and respectively declare and expand the rights, faculties, and jurisdictions of the Archpriest, Chapter, and Canons of the aforementioned 'Basilica' concerning the collation of ecclesiastical benefices of whatever kind, with and without cure, as well as concerning the administration of parochial churches, monasteries, priories, abbeys, and other institutions united to or subject to said Basilica." It is clear that here the intention of the Pontiff refers to two distinct objects of a different nature, namely, the collation of Vatican benefices, and the administration of churches united to the Basilica and dependent upon it; while the intention regarding the benefices was to assert and confirm the rights already existing and exercised by the Chapter, instead, regarding the united and dependent churches, it was to declare and expand the rights, faculties, and jurisdictions. For what reason would the Pontiff grant rights, faculties, and jurisdictions? If the rights pertain to the collation of benefices, then the faculties and jurisdictions cannot be referred to these, but rather

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pertain to the churches, monasteries, priories, united to and dependent upon the Chapter. The very structure of the sentence clearly establishes this meaning. Having premised the distinction of the two aforementioned objects, to which the benevolent intention of the Pontiff is directed, two verbs are used: *asserere et confirmare* (to assert and confirm), distinct from the other two: *declarare atque ampliare* (to declare and expand), with the adverb "respectively," which serves to demonstrate that the first two verbs refer to the first object, namely, the collation of benefices, while the other two refer to the second, namely, the churches united and dependent. It is not the collation of benefices that Benedict XIV intended to expand with the Bull *Ad honorandam*, but rather the rights with respect to the united churches, ennobled with special faculties until they were elevated to a certain degree of jurisdiction. There can be no doubt of this, if one carefully considers the entire context of paragraph 39 cited. The true intention of Benedict XIV, mentioned in the preamble which constitutes the first sentence, is clearly expressed in the operative part, contained in the second sentence, which explains and completes it in all its particulars. Here it is written: "Therefore, the collation of all and each perpetual simple benefices, which exist in the aforementioned Basilica, and of benefices and clerical positions, dependent on others from monasteries, abbeys, and priories, hereinafter mentioned, and of others which the Archpriest and Chapter have hitherto been accustomed to confer; and the institution in them, or respectively concerning them..."

[*Latin ed. p. 246*]

246 Acta Apostolicae Sedis - Commentarium Officiale: "Iura nominandi et praesentandi, quibus ad hunc diem usi sunt, et eidem Archipresbytero, eiusque in Archipresbyteratu successoribus, nec non praedictae Basilicae Capitulo et Canonicis perpetuo competere volumus atque decernimus." Per quantum omnia beneficia, Pontifex considerat omnia quae Archipresbyter et Capitulum consueverunt conferre; et per quantum omnia ius collationis et etiam presentationis, confirmat ea sola quibus ad hunc diem Archipresbyter et Capitulus usi sunt. Non valet dicere quod Pontifex in periodo sequenti confirmat adhuc veterem consuetudinem, quasi voluisset revocare in vigorem ius consuetudinarium, relativum ad collationem beneficiorum in casu examini, ante compilationem Regulae IX, quod abiectum erat. Imperocché, praeterquam quod hoc est gratuita assertio Mons. Dandini, veterem consuetudinem quae hic approbatur, refertur solum ad modum semper habitum a Capitulo in conferendo beneficia: praesertim in relatione ad distributionem hebdomadarum: "tam circa divisionem hebdomadarum, quibus idem Archipresbyter et respective Capitulum et Canonici praedicti eadem beneficia pro tempore vacantiae, alternatim et per turnum conferre debebunt"; secundariamente in ordine ad litteras collationis: "quam circa formam expediendi litteras huiusmodi collationum, prae-

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sentium tenore approbamus et confirmamus." Nullus ampliamento igitur iurum respectu collationis beneficiorum est introductus in par. 39, post quem non iam loquitur de tali materia in toto reliquo documenti; mentre invece in paragraphis sequentibus explicatur largiter voluntas Pontificis, qui concedit facultates et privilegia etiam iurisdictionalia, in Ecclesiis unitis ad Basilican Vaticanam et ab hac dependentibus. Infatti, in paragraphis sequentibus, certa iura, quae antea non erant absolutamente certa, vel erant minus extensa, et in quocumque casu sanxi sunt cum authoritate Apostolica, sunt declarata, confirmata, et amplificata. Ad citanda aliqua, Benedictus XIV in par. 40 (referens ad decisionem Sacrae Congregationis Concilii et ad res stabilitae in Conventione stipulata in consequenti, circa curam animarum, habitualem in Capitulo et actualem in Vicario perpetuo Basilicae) dicit: "quo firmioris observantiae robur accipient, Apostolica etiam Authoritate Nostra, harum vigore perpetuo approbamus et confirmamus." Confirmata omnia iura Capituli et Canonicorum in Ecclesiis parochialibus filialis, et quocumque modo dependentibus ab Basilica, et super personis, quae ibi exercitant curam animarum, in par. 41.

[*Latin ed. p. 247*]

The Roman Rota, in document 247, still recognizes the right of the Chapter to appoint Vicars who are removable at will, in the churches of St. Lazarus and St. Angelo, and it stipulates that these Vicars, with regard to the care of souls, are exempt from all jurisdiction of the parish priest of that Basilica, to whom they were formerly subject; while it confirms the dependence of the parish of St. Francis on Monte Mario and regulates its duties towards the Chapter, without any right to demand a salary or stipend, even in respect of sacred furnishings. In paragraph 44, it desires and commands that all Vicars, Curates, and Rectors of filial churches, present and future, be subject to the Chapter, and that they must render all and singular acts of due submission towards the Basilica, its Chapter, and its Canons, perpetually and in the future; and at the same time, it grants the privilege to both parish and non-parish, but filial, churches, wherever they may be located, although not exempt from the jurisdiction of the Ordinaries, none excluded, of not being subjected to interdict, except for the general interdict, without the consultation of the Roman Pontiff. It also decrees in paragraph 45 that, for the favor of the Chapter and its Canons, it intends to "innovate and also, according to the present text, to grant and bestow" the ancient custom of the Basilica of communicating and extending, on the model of the Patriarchal churches of St. John Lateran and St. Mary Major, indulgences and other spiritual graces to all churches of the world united and dependent on it, as it grants, with a Motu Proprio and with certain knowledge, the right to aggregate, for the sole purpose of participating in all spiritual benefits, churches, altars, chapels, confraternities, wherever they may be located

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and subject to the jurisdiction of any Ordinary; "so that, in virtue of this aggregation and reception of the aforementioned indulgences and relaxations, these churches, chapels, altars, and other aforementioned things are considered to be extended and granted by Our and Apostolic See." Given the custom of the Chapter to grant dispensations for sacred ordination in the Monastery of St. Mary of Fara, a custom not supported by an Apostolic indult or privilege, in order to prevent any annoyance, and to ensure that this faculty is more fully and abundantly observed, it grants to the Chapter and its Canons the power to issue in the future letters of dispensation to the subjects of the Monastery of St. Martin "as they have hitherto done," and this "by this Apostolic Authority, according to the tenor of the aforementioned [provisions]" (paragraph 51). It confirms in its entirety, in paragraph 57, the indult granted by Benedict XIII to the Chapter, to give dispensations for the sacred ordinations to the clerics of the suppressed monasteries of St. Rufillus, of St. Peter Licosato, and...

[*Latin ed. p. 248*]

"In the Acts of the Apostolic See - Official Commentary of St. Nazarius; and adds: 'so that the work may be accomplished, by our own motion and with full authority, through these very present decrees, we determine, establish, and declare that the aforementioned Chapter and Canons in the aforementioned places of the Monasteries... have ordinary and almost Episcopal jurisdiction over them, and the exercise of such jurisdiction, with a proper, distinct, separate, and particular territory, freely belonging to no Diocese.' In paragraph 58, a special indulgence is granted for the governance of the Monastery of the Capuchin Sisters of Meldola, by virtue of which the Chapter and Canons 'in all respects, even with regard to all other Ordinaries, even those nearby, have the right to visit and to make decisions regarding the Monastery itself and the governance of the Sisters, discipline, the economic administration, and all other matters, even with regard to enclosure, so that they may establish and order all things and individual matters that they deem to be salutary...'. Finally, in paragraph 59, he confirms the privilege granted by Urban VIII concerning the dispatch of Apostolic Letters, in a commissary form, with regard to the Monastery of St. Martin of Fara, a practice applied to the Monastery of St. Rufillo, and extends it to the Monasteries of St. Peter Licosa and St. Nazarius. Thus, Pope Benedict XIV wished to expand the privileges of the Vatican Basilica and its Chapter, and, as he wished, so he did; but only with respect to the churches united to it and dependent upon it. In this sense, the Benedictine Bull, from its very first appearance, was understood within the Vatican Chapter. Indeed, in the year 1752, when the Bull *Ad honorandam* was published, three beneficiaries of the Chapter, Cennius Caietanus, Michael Angelus Giacomettus, and Franciscus Marianus, were actively involved, the first as the author of the publication, and the other

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two as revisers (Collectiones Buttar. Brev. alior. Diplom. Sacr. Basil. Vatic, Vol. III, ed. 1752, p. 68 Ind. Auct., p. X, Approbationes). Moreover, the marginal notes appended to the Bull express very clearly the concept that the Pontifical Commission has already expounded. The note appended to paragraph 39, which is the subject of discussion, states: 'The right to confer all benefits upon the Archpriest and Canons is confirmed'; and adds: 'the ancient custom regarding such matters is also approved.' It is no longer a question of this; no other right is recognized or approved. Instead, the notes appended to the following paragraphs are expressed differently. In paragraph 57, the note states: 'In all matters pertaining to the Abbeys of St. Rufillo, St. Peter Licosa, and St. Nazarius, the ordinary jurisdiction of the Chapter is more fully asserted.' The note in paragraph 58 states: 'A special indulgence is granted for the governance of the Monastery, even with regard to enclosure.' And in paragraph 59, it reads..."

[*Latin ed. p. 249*]

The Roman Rota affirms and "extends the pontifical privilege and ancient custom to other monasteries in describing matters in the records of the Roman Curia, and to the direction and execution of all letters and Apostolic commissions." With these words, the Beneficiaries of the Vatican acknowledged that in the Bull *Ad honorandam*, the privileges of the Chapter were indeed expanded, but in favor of churches united or dependent on the Chapter itself, and not concerning the collation of benefices. It should also be noted that Benedict XIV, who was already a Consultant to Clement XI, and also a Canon and Secretary of the Vatican Chapter, knew very well the claims of this Chapter in the matter in question, as he knew other issues that had arisen previously. Now, in the Bull *Ad honorandam*, the Pope did not allow these issues to remain unresolved, and with his Apostolic authority, he established clearly and unequivocally the rights of the Chapter. He did so, as has already been seen, when he legalized the custom of granting dispensations to the subjects of the Monastery of St. Martin (paragraph 57); he did so again when, after the abuse had been introduced that some Vicars of churches united to the Chapter, who were eligible for election by the Chapter at its discretion, were appointed by the Holy See through a simple and new provision, and as a result of which, over time, those churches and vicarages came to be considered as perpetually held and collated, subject to all Apostolic conditions and reservations, he affirmed the right of the Chapter against the Dataria (paragraph 61); and he would have done so, and would undoubtedly have done so, in the matter relating to the collation of benefices, if he had truly wished to resolve it in the sense claimed by the Chapter, namely, to confer vacant benefices *extra curiam* even during papal months, granting an Apostolic privilege to this effect, in order to preclude all future possible controversies and to avoid the nullity of the collations. Instead, nothing of this is found in paragraph 39, which is the

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only paragraph in which this topic is discussed; the rights are recognized as they were previously held by the Chapter, and nothing more. Therefore, no expansion should be recognized as induced by the aforementioned Bull in the rights of the Chapter concerning the collation of benefices. As for the second argument, on which not only the Canon of Tournon, but also the Vatican Chapter, with the very clear Father Vidal, professor of Canon Law at the Gregorian University, insist so much, the Pontifical Commission, after careful examination, did not find it worthy of being considered conclusive in the sense claimed by the Chapter. Indeed, in paragraph 39, it is written: "Excepting, however, Our own and the Apostolic Dataria's right concerning the collation of those benefices."

[*Latin ed. p. 250*]

250 Acta Apostolicae Sedis - Official Commentary: "which, from the person of the one holding it, are subject to certain affections and reservations Apostolic, in whatever way it may happen that they become vacant." Regarding these words, the Chapter argues that Benedict XIV *intended to reserve for the Dataria only those benefices subject to a personal reservation from the person, and that therefore, the collation of benefices vacant outside the Roman Curia during the papal months falls within the rights of the Chapter. The fallacy of this argument is clearly evident when one considers and properly determines the true meaning of the expression "ex persona," which the Chapter, contrary to truth, restricts solely to the qualities of the person who was invested with the benefice. Indeed, if this were the meaning of the expression "ex persona," and if the Pope had intended to exclude reservations arising solely from the qualities of persons, it is evident that the rights of the Chapter, as regards the collation of benefices, would have been expanded, and a derogation from Rule IX of the Chancery would have been introduced, which has already been excluded. The expression "ex persona" is not here used restrictively to express personal reservations, in the sense indicated and intended by the Chapter, to the exclusion of all others; rather, it is used in a very general sense, and consequently, it indicates that the exception does not refer only to the dignity of the person of the beneficiary, but also includes any other circumstance connected with the person of the one who was invested with the benefice, and which implies an affection or reservation. The preposition "ex" (as Forcellini states in his Lexicon totius latinitatis under the letter "C, 3), "often signifies the efficient cause, the occasion, the origin from which something arises, and often has the force of 'propter'." Therefore, the expression "ex persona" is much broader than that of "ex qualitate personae" or "personalis," and therefore, when applied to reservations, it indicates all those that, in any way, depend on the person, whether the person is the cause of them, or whether the person is the occasion for them. D'Annibale, so accurate in the exposition of his doctrines, divides reservations into three species: "I.

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ratione ipsius Beneficii... II. ratione personarum, and III. in poenam," and he says: "Therefore, they are reserved... ex II (ratione personarum) 1) those pertaining to the official offices of the Roman Curia, Collectors and Subcollectors of the R. C. A., as long as they hold such offices; 2) those called (ratione loci) in the Curia or near the Seat...; 3) finally (ratione temporis) those that become vacant when the Episcopal See is vacant... or during the papal months" (Summa Theol., n. 33). Therefore, in the second species, are included not only the reservations induced by the qualities of persons, but also those that are connected with the person by reason of the place or time in which the benefice becomes vacant, and therefore, the personal reservation, broadly understood, is not only that.

[*Latin ed. p. 251*]

The Roman Rota, in Decree 251, originates directly from the person of the beneficiary; but it also derives indirectly, due to the place and time of the vacancy of the benefice. This is so true that the authors, when discussing reservations, and distinguishing them into their various kinds, in order to determine the personal ones, do not merely use the expression *ex persona*, but add to it other words that more accurately determine its meaning, which is not adequately established by that expression alone. Thus, to cite only the authors to whom the chapter has referred, Cardinal De Luca (*Le Beneficiis*, Summary, n. 3, on reservations and their effects) says, "personal reservations are those 'ratione personarum' which 'vacantia Beneficia possederint,' because, indeed, officials, collectors, apostolic notaries, papal family members, and the like." La Croix (Book IV, n. 490) says: "personal, which arises from the person whose death causes the vacancy, as when 'it was a papal family member.'" And De Rosa (Treatise on the Execution of Apostolic Letters, Part I, n. 168) says: "ratione personae, which occurs from the very persons, namely, those of the Pope and Cardinals, Protonotaries, and the like." In confirmation of this, it is useful to observe that Benedict XIV, in paragraph 39 cited, makes a concession, to which he opposes a restriction: wishing this restriction to be broad and not subject to ambiguities, which could have arisen if he had simply said *ex persona*, he adds such expressions that it is absolutely impossible to restrict the exception made to merely the quality of the person of the beneficiary. If he had wanted to restrict the exception in this way, the expression *ex persona* alone would have been sufficient, without adding anything else, since the person, by their quality, immediately produces the reservation. Instead, he adds, without any distinction: "Ea obtinentis." That is, "these [benefices], whether subject to one or many apostolic affections and reservations." Therefore, all affections and reservations are included in the exception, which is therefore not restricted to strictly personal reservations. Furthermore, if the exception *ex persona* had contemplated only the personal reservation due to the quality of the person, the other

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words that follow would have been entirely inconclusive and useless: "quomodocumque vacare contingat." The mere quality of the person, in that hypothesis, would have expressed the reservation, regardless of how the vacancy of the benefice occurred, without it being necessary to expressly declare it. But since this declaration exists, it must be considered that it is not only the dignity of those who are Curial and officials of the Holy See that the exception has considered and deemed, but any other reservation to which the manner of the vacancy refers, whether for reasons of time, or for reasons of place, or for both together. Finally, the exception does not contemplate only...

[*Latin ed. p. 252*]

252 Acta Apostolicae Sedis - Official Commentary. However, affections also give rise to reservations. These are implicit reservations, yes, but real, because they directly affect the Benefice. "Generally," it is the rule that every affection always entails a real reservation, and not a personal one, insofar as it affects the Benefice and not the person" (Pitonius, Discept. Eccl., 105, n. 22); however, if the exception in question had considered only the reservations arising from the quality of the person benefiting, it would have had to exclude affections. This is not true, and it is confirmed by the fact, recognized even by the Chapter, which claims no right over Vatican Benefices subject to real affections and arising "from the decree concerning those who are to be dismissed, or from any other papal act" (Riganti, I, par. 2, n. 25-28). Therefore, the right claimed by the Chapter has no basis in the Bull *Ad honorandam*, which does not admit the interpretation made in its allegations, and which has brought no modification to the previous provisions favorable to the Apostolic Datary. In addition to Rule IX of the Apostolic Chancery, the Vatican Chapter is also subject to the Bull *Dum singularem* of Leo X, which, with regard to clerics to be invested with Benefices in Rome, requires the quality of Roman citizenship. This provision was given to favor citizens of Rome by origin. Indeed, it is stated in said Bull that the Benefices of Rome are conferred only upon Roman citizens; but then an exception is made, stating that this provision does not include Cardinal titles, the Archpresbyterates of the Major Basilicas, and certain monasteries customarily given in commendam to Cardinals. "Leo X granted that ecclesiastical benefices, with or without cure, existing in the City and in its District, with the exception of Cardinal titles, the Archpresbyterates of the three major Basilicas of the City, and certain monasteries, should be conferred, or commended, only to Roman citizens, and declared that any and all collations and commendams of benefices previously made otherwise, even by his own authority, were null and void" (Riganti in Reg., XVII, n. 137). Such an exception would have been absolutely useless, if the quality of Roman citizenship, considered in the Bull *Dum singularem*, were not only of original origin, but also acquired, ei-

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ther by reason of domicile, or by reason of privilege; for, being Cardinals by right Roman citizens, although not always Romans by origin, they would have been included in the general provision of the Pontifical Bull, without the need to make an explicit exception for them. Furthermore, the Holy See has always understood that the Roman citizenship of which mention is made in the aforementioned Bull, is of original origin, and whenever it has been a matter of conferring the Benefices of Rome upon clerics not of Roman origin, it has always stated the condition that...

[*Latin ed. p. 253*]

S. Bontana, Bota 253, dispensa Pontificalis. Now, since custom is an excellent interpreter of the law (Rota, dec. 527, n. 39, p. 19, tom. I I I; dec. 518, n. 36, p. 19, tom. II Recen.), it must be considered that the Roman citizenship desired by Leo X is truly the original one. Therefore, Riganti said: "In our case, the opinion of the Dataria and the Chancery is that, by derogating from the Indulgences and Privileges of the Roman people, they expressly suppose that these were granted to the 'original' citizens" (lib. II, ad Reg. XVII). It is true that, in ancient law, under the name of Roman citizen, foreigners were also included, to whom Roman citizenship was granted, as also at the present time, Roman citizenship can be acquired by domicile. But this does not detract from the truth of the conclusion stated. Although the Roman citizenship of origin is to be compared to that acquired by domicile and by privilege, this must be considered true in relation to civil society, and within the limits of the rights and privileges granted by it and dependent upon it; not in relation to the ecclesiastical society, which is founded upon principles, and is regulated by entirely different laws, which all depend upon the supreme authority of its Head, the Roman Pontiff. Consequently, the right to obtain the Benefices of Rome, granted to Roman citizens of origin, is understood to be granted to Roman citizens by domicile or by privilege. Nor is it to be said that, because the Bull Ad honorandam is posterior to the other Bull Dum singularem, it is to be considered that Benedict XIV derogated from the disposition of Leo X, with regard to the citizenship desired. For, it is fitting to repeat once again, that Benedict XIV, with regard to the collation of Benefices, did nothing more than confirm the rights of the Chapter as they had enjoyed them up to that time, and did not intend in any way to expand them. But if this derogation had been in the intention of the Pontiff, it is clear that the rights of the Chapter would have been expanded, and the Chapter would have acquired a right that it did not previously have. To this is added that Leo X created a right of passive patronage in favor of the original citizens of Rome, and this, if it is not a true reservation, nevertheless constitutes an impediment that does not allow the collation of the Benefices of Rome to non-Roman clerics of origin. When dealing with the rights of third parties, a derogation cannot be considered valid if there is no clear and express

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mention of it. Since in the Bull Ad honorandam, there is no mention of this derogation, it follows that the Bull Dum singularem maintains all of its original value. And this is also confirmed by the practice of the Dataria. All these things, considered in law and in fact, invoking the Holy Name of Christ, We, the undersigned, Auditors of the Holy Roman Rota,

[*Latin ed. p. 254*]

254 Acta Apostolicae Sedis - The official commentary, endowed with a special faculty granted by the Supreme Pontiff to judge and pronounce sentence in the present matter, before the assembled tribunal, and having only God before our eyes, we decree and definitively sentence that the Most Reverend Chapter of the Vatican Basilica is subject to Rule IX of the Apostolic Chancery and to the provisions of the Bull *Dum singularem* of Leo X; "that is to say, we answer affirmatively to the first and second parts of the question proposed." Rome, May 10, 1916. Mons. Guglielmo Sebastiani, Dean of the Sacred Roman Rota. Mons. Federico Cattani-Amadori, Auditor of the Sacred Roman Rota. Mons. Pietro Rossetti, Auditor of the Sacred Roman Rota.

[*Latin ed. p. 255*]

From the Roman Curia Diary 255. DIARIUM ROMANAE CURIAE. SECRETARY OF STATE. By means of letters from the Secretary of State, the Holy Father has deigned to appoint: June 28, 1916. — The Reverend Father Giuseppe Haegy, of the Congregation of the Holy Spirit, Consultor of the Sacred Congregation for Religious. July 1. — The Most Reverend Cardinal Audo Gasquet, Protector of the Benedictine Nuns of the Cassine Monastery of Saint Joseph, in Assisi.

FROM THE PAPAL HOUSEHOLD. By means of letters from His Eminence, the Reverend Monsignor Maggiordomo, the Holy Father has deigned to appoint: Extraordinary Secret Chamberlains to His Holiness: April 29, 1916. — Monsignor Domenico Jannuccelli, of the diocese of Sessa Aurunca. May 19. — Monsignor Enrico Daly, of the archdiocese of Westminster. June 6. — Monsignor Gioffredo Granero, of the diocese of Pinerolo. — Monsignor Celestino Ughetti, of the same diocese. June 10. — Monsignor Giovanni Salvioni, of the diocese of Bergamo. Honorary Chamberlains in purple vestments to His Holiness: June 7, 1916. — Monsignor Serafino Pelimi, of the diocese of Livorno. June 10. — Monsignor Ambrogio Rizzi, of the diocese of Cremona. Honorary Prelate outside of Rome to His Holiness: May 24, 1916. — Monsignor Domenico Catalano, of the diocese of Gerace.

[*Latin ed. p. 256*]

256 Acta Apostolicae Sedis - Official Commentary of the Extraordinary Papal Chamberlains of Sword and Cape: April 5, 1916. — Mr. Girolamo Gigli, of the archdiocese of Naples. June 3. — Mr. Count Baldassarre of

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Santiago de Compostela of Sanguineto, of the diocese of Padua. — Mr. Anthony de Toro Donoso, of the diocese of Santiago (Chile). Extraordinary Papal Chamberlain of Sword and Cape: June 28, 1916. — Mr. Knight Camillo Beccari, of the archdiocese of Bologna. NECROLOGY: June 9, 1916. — Monsignor Felice Gianfelice, Bishop of Boiano. June 21. — Monsignor Tommaso Alfonso O'Callaghan, Bishop of Cork. June 27. — Monsignor Robert Brindle, titular Bishop of Tacape. July 1. — Monsignor Giacomo Menwissen, titular Bishop of Prusa.

[*Latin ed. p. 257*]

Year T U I - Vol. T U I, August 1, 1916, No. 8. ACTA APOSTOLICAE SEDIS, Supplementum. OFFICIAL ACTS OF POPE BENEDICT XV. APOSTOLIC LETTER, UNDER THE LEAD SEAL, CONCERNING THE ERECTION OF THE ECCLESIASTICAL PROVINCE OF CARDIFF. BENEDICT, BISHOP, SERVANT OF THE SERVANTS OF GOD, FOR THE PERPETUAL COMMEMORATION, declares that Cambria, of Celtic origin, distinguished from other regions of England by its language, customs, and traditions, appears to require, even in the ecclesiastical order, to be separated from the others and to be endowed with its own hierarchy. Aware of this, the Ordinaries of the Province of Birmingham recently petitioned the Apostolic See, so that two dioceses, Neoportus and Menevia, which encompass all of Cambria, or the Principality of Wales, might be canonically separated from the metropolitan jurisdiction of Birmingham and constituted into a new ecclesiastical province. Approving of these requests, after consultation with the Venerable Brethren, Our Most Reverend Cardinals, of the Sacred Congregation Consistorial, We have judged it fitting to separate and divide the aforementioned two dioceses, for the reason stated, and We separate and divide them by these Apostolic Letters, and We erect and constitute them into a new ecclesiastical province. Furthermore, since it is highly fitting that the Episcopal See of the diocese of Neoportus be located in the city which is the capital of all of Wales and surpasses all other towns, that is, Cardiff, therefore We transfer the Episcopal See of Neoportus to that city, and We establish it there, and the venerable S. David.

[*Latin ed. p. 258*]

258 Acta Apostolicae Sedis - Official Commentary: We decree that the cathedral church shall be the seat [of the diocese]; and We command that the diocese of Neoportus shall henceforth be called the city of Cardiff, namely Cardiffensis. Furthermore, We erect the same as the Metropolitan Archdiocese of all of Cambria, with all the rights, privileges, and offices which belong to Metropolitan Sees, and We establish the See of Menevia as a suffragan [diocese], firmly establishing this new province with the ordinances which were decreed in the Constitution *Si qua est*, of the twenty-eighth day of the month of October of the year

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one thousand nine hundred and eleven, for the closer preservation of ecclesiastical unity in England. A secular chapter shall be established in the Metropolitan Church of St. David, under the laws which shall be proposed by the new Archbishop concerning the number of dignities and canons, concerning residence and choral service, and other matters, after he has taken possession of the diocese and after these have been approved by the Apostolic See. Moreover, since it is fitting that the illustrious Order of St. Benedict, which has greatly benefited the Church in England, and especially in the diocese of Neoportus, should not be diminished, therefore We decree and ordain that the monastic chapter at Belmont, near Hereford, and the episcopal cathedra erected there, shall be maintained in their existing state, and that, as previously, according to the tenor of the decree of the Sacred Congregation of Propaganda Fide of the twenty-first day of the month of April of the year of Our Lord one thousand eight hundred and fifty-two, they shall continue, with the modifications which the Abbot President of the Congregation of Monks of the Order of St. Benedict in England shall propose to the Holy See for approval within the aforementioned time, and which shall have been approved by the same; so that the Archbishop of Cardiff shall have two chapters, one secular and one regular, and two cathedral churches: the regular chapter, according to its own laws, shall perform the sacred functions in the cathedral church of the monastery, with the Pontifical privileges of the Prior being preserved. Nevertheless, let the episcopal curia be: therefore, those documents which have hitherto been kept with the Bishop of Neoportus or with the cathedral at Belmont, and which concern the status of the diocese, shall be transferred to the city of Cardiff, to the Archbishop and the new curia established there. These things which have been decreed by Us with apostolic authority, it is forbidden to any person, at any time, to infringe, to oppose, or in any way to contradict. If anyone, may God prevent it, should presume to attempt this, let him know that he will incur the penalties prescribed by the sacred canons against those who obstruct the exercise of ecclesiastical jurisdiction. To these matters, We entrust the execution to Our Venerable Brother, Edward Ilsley, Archbishop of Birmingham, and We grant him the necessary faculties for this undertaking, including the power to delegate another person constituted in ecclesiastical dignity, and definitively.

[*Latin ed. p. 259*]

259 The Acts of Pope Benedict XV decree that, concerning any difficulty or opposition that may arise, and in order to fulfill the burden imposed upon him, he shall transmit to the Sacred Congregation Consistorial in Rome, within six months, a fully authenticated document, in the prescribed form, for the absolute execution of this Our mandate. Finally, We decree that these present Letters shall be valid, notwithstanding any contrary pro-

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visions, even those of particular and expressly designated nature, to the contrary notwithstanding. Given in Rome, at St. Peter's, in the year of Our Lord nineteen hundred and sixteen, on the seventh day of the month of February, in the second year of Our Pontificate. Place: >S Plumbi. O. CARD. CAGIANO DE AZEVEDO, © C. CARD. DE LAI, Bishop of Sabina, S. B. E. Cancellarius. S. Iulius Raphael C. Consistorialis Secretarius. Campori, Apostolic Protonotary, Virili, Apostolic Protonotary. Registered in Cane. Ap., vol. XIII, n. 18. M. RIGGI, from the tabularium C. A.

LETTERS: The Temple of St. Mary, commonly called the "Apostolic" at Pozzano, near Stabia, is granted the title of Basilica.

POPE BENEDICT XV.

For the perpetual memory of this matter.

Following in the footsteps of Our predecessors, the Roman Pontiffs, We have always been pleased to honor sacred buildings, which, erected in ancient times and adorned with all kinds of artistic works, are particularly venerated by the Christian faithful, with illustrious titles and privileges, in order to promote devotion to God and the blessed in Heaven, as far as is in Our power. Among these, the Marian sanctuary deserves special mention, which was founded on the hill commonly called Pozzano, near the Castrum Maris or Stabia, in the eleventh century, and in the following time was not only enlarged, but also embellished and perfected with every artistic refinement, in honor of the ancient image of the Virgin Mary, which, having been found in a well, was presented to the Christian people in the same temple for veneration. Concerning this, it is said that the Blessed Virgin of Pozzano has granted many graces to those who invoke her.

[*Latin ed. p. 260*]

260 Acta Apostolicae Sedis - The official records state that they have implored their children to provide assistance; the city of Stabia has, in its time, been spared from destruction, first by the threat of Saracen forces in the 16th century, then by the widespread plague in the 17th century, then by earthquakes in the 18th century, and finally in our own age by the eruption of Mount Vesuvius, as well as by contagion, having happily escaped thanks to the protection of the merciful Mother. Therefore, not only Campania and the surrounding areas, but also from distant and remote regions, Christians travel there and often gather in large numbers; the citizens of Stabia, in honor of the blessed Virgin of Pozzano, whom they have chosen as their patron, have placed her image on the city's coat of arms, and twice a year, on fixed days, they hold solemn celebrations with great pomp, and the municipal council publicly attends these celebrations, along with others. Considering these circumstances, the Order of Canons of the Vatican Basilica, in the year 1874, with great approval

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and joy, redeemed the same image of the Mother of God with a golden crown. Furthermore, in that temple, there are two other images that are venerated by both inhabitants and visitors: one of Christ hanging on the cross, which is said to have miraculously arrived there in the 17th century, when the region was threatened with destruction from the fires of Mount Vesuvius; the other is of Saint Francis of Paula, whose care of the sacred building has been entrusted to the Order of the Minim Friars. These, in turn, diligently fulfill the duties entrusted to them, so that neither the dignity of the divine worship nor the incentives of piety are lacking there; and all those who come there for the purpose of pious pilgrimage are usually received in such a way that it befits the heirs of the Lawgiver, whose emblem is "Charitas." Therefore, since the Venerable Bishop of Stabia, with the support of the Order of Canons and the entire clergy, and the Superior of the Minim Friars, and the very council that governs the city of Castrum Maris, have supplicated us with fervent prayers to honor the temple that we have mentioned with the title and dignity of a Basilica, we are pleased to grant their requests. Therefore, by our apostolic authority, through these letters, we permanently bestow upon the temple of the Blessed Virgin Mary of Pozzano, of the Order of the Minims, the title and dignity of a Basilica, and we augment it with a privilege, by virtue of which it is permissible to display the insignia of Basilicas, that is, the bell and the canopy, in addition to the emblem of this same temple, provided that it is entirely devoid of ornamentation made of gold or silver. We decree that these our letters shall always be firm, valid, and effective, and shall have their full and complete effect and obtain it, and that they shall fully suffice for all those to whom they apply, now and in the future, in all things and through all things, and that they shall be judged and determined in the aforementioned matters by any ordinary and delegated judges, and that they shall be null and void if anything is done to the contrary with any authority, knowingly.

[*Latin ed. p. 261*]

261 The acts of Pope Benedict XV, or perhaps, unknowingly, something has transpired. Notwithstanding the Apostolic Constitutions, and whatever else may be contrary. Given in Rome, at St. Peter's, under the Fisherman's ring, on the fifteenth day of the month of July, in the year 1916, in the second year of Our Pontificate. L.©S. P. GARD. GASPARRI, from the Secretariat of State.

TO THE MOST REVEREND ANDERSON CARDINAL PERRARI, ARCHBISHOP OF MILAN, AND TO THE OTHER BISHOPS OF THE ECCLESIASTICAL PROVINCE OF MILAN, ASSEMBLED FOR THE ANNUAL MEETING.

Beloved Son and Venerable Brothers, greetings and the apostolic blessing.

The letter which you, recently assembled in Milan, sent to Us, has con-

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veyed not only your words and desires, but has also expressed a spirit so united to Us, through devotion, obedience, and every kind of service. Your desires are for peace, and as you write, you pray to God that, under the auspices and with the help of the Apostolic See, justice and charity may be quickly established. It is scarcely possible to desire anything more in these troubled times, than that those who are guided by the love of religion and of their country should act with such prudence; and you are, indeed, very well aware that, if, as is planned, you undertake with the utmost care a social action in the Christian manner, it will be most beneficial. For the people are in need of the same things now: that the forces of religion be united, that discipline be maintained, so that Catholics may more securely and abundantly enjoy the benefits of peace. In the meantime, we gratefully acknowledge the services you have rendered; and we commend your plans and proposals to God, that they may be most fruitful for each of you and for your flocks. And may the apostolic blessing, which, as a pledge of heavenly favors and a sign of Our benevolence, We impart to you, beloved Son, and to all of you, Venerable Brothers, and to your dioceses, accompany you always in the Lord.

Given in Rome, at St. Peter's, on the twenty-second day of May, in the year 1916, in the second year of Our Pontificate.

BENEDICT XV, POPE.

[*Latin ed. p. 262*]

Acts of the Apostolic See - Official Commentary

TO THE REVEREND ALOISIUS IAUCH, WRITING, THE PIOUS WORK IS COMMENDED BY SAINT FRANCIS SALESIUS.

"Beloved Sons, greetings and the apostolic blessing. — We have received with great pleasure the commentaries on the pious work, which have appeared during the past two years, from our beloved Son, Cardinal Caietano Bisleti, whom you rightly esteem as a diligent and learned man. Since it has always been our most fervent desire that your work flourish with the favor and grace of the Catholics, and now, established in this dignity of the apostolate, we gladly seize the opportunity to commend it. Indeed, in these times, in which we see "all and the vanities of errors and the allurements of corruption" bring the salvation of the Christian people into danger, nothing could be more fitting than a work whose purpose is to defend the faith in the people and to foster the practice of Christian life. We pray that your zeal for the Church may grow in you, and that the fruits of your labors may become ever more evident. For which we give thanks to God, and we ask that He may continue to assist you with His help. For after this great battle has been fought, it will also be greatly beneficial to you to repair the ruins of Christian society. We bestow upon you, beloved sons, and upon all

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who favor this work, our paternal benevolence and the apostolic blessing, as a testament to the divine gifts. Given in Rome, near Saint Peter's, in the second year of Our Pontificate, on the third day of May.

BENEDICT XV

1916"

[*Latin ed. p. 263*]

263 The Most Holy Supreme Congregation of the Holy Office, having considered certain doubts concerning the granting of indulgences to members of the Third Order, hereby decrees the following, so that matters may be clarified: The General Procurator of the Order of Friars Minor humbly presented the following to the Most Holy Supreme Congregation of the Holy Office: Of venerable memory, Pope Pius X, through a Brief concerning the Sodalities of the Third Order, granted the following in perpetuity on May 5, 1909: "That those who enjoy the gifts of pontifical indulgences, and who receive spiritual fruits from the good works of the families of the First and Second Orders, may, all the Franciscan Tertiaries, both men and women, and of whatever Institute, participate in these benefits, both in life and in death." Furthermore, the same Pontiff, approving of the prayers offered to him in this matter, and subscribing with his own hand to the petition, granted the following in perpetuity on the 17th day of the same month and year: "That those who fight under the banner of the Most Seraphic Father Francis, belonging to whatever Order or family of Orders, may perpetually enjoy the benefits of the communication of Indulgences and spiritual fruits." Indeed, from this granted communication of Indulgences, several doubts have arisen concerning its interpretation and application to particular cases. Therefore, in order to proceed securely in this matter of such importance, the orator earnestly requested that these doubts be authentically resolved: I. Whether, by virtue of the aforementioned communication, churches or chapels which belong to the Third Secular Order of Franciscans enjoy the Indulgences granted to any church or public chapel of the First and Second Orders, as well as the benefits granted to all the faithful who visit these places on certain days?

[*Latin ed. p. 264*]

264 Acta Apostolicae Sedis - Official Commentary I I. Whether the faithful enrolled in the Third Order of St. Francis can obtain Indulgences directly granted to churches or chapels of the First, Second, and Third Regular Orders, if, instead of visiting the churches or chapels of their own Order, they visit a church or chapel in which the seat of the Sodality is established, even though this church or chapel does not properly belong to the Third Order? And, if affirmative, III. By virtue of the Indult of Communion, can the tertiaries obtain the plenary Indulgence granted to those who visit

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churches of the First Order on the *Commemoration of all the Brothers deceased*, both on the day on which this Commemoration is celebrated within the Family under whose obedience they live, and also on the day on which it is celebrated within other Families, that is, multiple times per year? IV. Do the Indults granted for obtaining Indulgences in favor of tertiaries who are infirm, poor, etc., of whom mention is made in chapter V of the approved Summary by the Sacred Congregation of Indulgences on September 11, 1901, apply only to Indulgences directly granted to the Secular Third Order, or also to those communicated from the First, Second, and Third Regular Orders? V. Does this communication granted by Pius X apply both to Indulgences granted up to that time and to those which will be granted in the future to the Franciscan Order? And the Most Reverend Cardinals, General Inquisitors, assembled in an ordinary meeting on Thursday, June 7, 1916, judged that the following should be answered: To I and II: Affirmative. To III: Negative, but only once per year. To IV: Negative to the first part; affirmative to the second. To V: Affirmative. Furthermore, on the following Friday, the 8th of the same month and year, through the report of His Most Holy Eminence, the Most Reverend Father Pope XV, by the Reverend Priest, the Assistant, His Holiness benignly approved and confirmed the judgment of the Fathers, contrary to whatever may be. R. CARD. MERRY DEL VAL, Secretary. L. © S. f Donatus, Archbishop of Ephesus, Assistant.

[*Latin ed. p. 265*]

The Most Holy Congregation of the Holy Office, DECREE CONCERNING THE FORMULAS OF PRAYERS ENRICHED WITH INDULGENCES WHICH SHOULD NOT BE ALTERED. This Most Holy Sacred Congregation of the Holy Office was petitioned with the following question: "Do the 'formulas of prayers,' if any alteration is introduced into them, lose the indulgences granted to them by the Holy See?" Because formulas of this kind, enriched with indulgences, should previously be subjected to careful review, and therefore to remove, add, or alter anything from them, or to change their meaning, would not be without irreverence and danger, and could offer an opportunity for abuses. The Most Eminent and Reverend Cardinals, Inquisitors General, in a plenary session held on Thursday, June 21, 1916, judged it necessary to declare: "Any formulas of prayers, praises, invocations, and 'other things,' which have been enriched with indulgences by the Holy See, if altered in any way, by any addition, subtraction, or interpolation, completely lose the granted indulgences." And on the following Friday, June 22, His Most Holy Lordship, Pope Benedict, of blessed memory, Pope XV, in the usual audience granted to the Reverend Father, Assistant of the Most Holy Congregation of the Holy Office, deigned to approve and confirm with kindness the resolution of the Most Eminent Fathers. Contrary opinions, even those deserving of special and individual mention, notwithstanding. R. CARD. MERRY DEL VAL, Secretary. f

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Donatus, Archbishop of Ephesus, Assistant.

[*Latin ed. p. 266*]

Acts of the Apostolic See - 266 Official Commentary

SACRED CONGREGATION CONSISTORIAL

I. OF THE CATHEDRAL TITLE FOR THE CHURCH OF SAINT SABINA IN THE CITY OF CANUSINA.

After the doubt was brought up for examination, concerning whether the title and honor of a cathedral church belonged to the venerable basilica of Saint Sabina in the city of Canosa, the Sacred Consistorial Congregation, having considered the documents and arguments presented, and with the approval of His Most Holy Lord Pope Benedict XV, declares by these letters that it does indeed belong to it: therefore, nothing prevents that same basilica from being called and honored with the title of Cathedral.

Given in Rome, from the Secretariat of the Sacred Consistorial Congregation, on the 9th of June, 1916.

jjl C. CARD. DE L A I, Bishop of Sabina, Secretary.

L. © S. Ioannes Bapt. Rosa, Substitute.

II. LETTER TO THE ORDINARIES OF ITALY CONCERNING MILITARIZED PRIESTS.

From the very beginning of the war, the priests and clerics called to military service were a source of great concern to the Holy See, and in order to provide in the best possible way for the new state of affairs and the very grave needs created by it, this Sacred Congregation, by decree of the 1st of June of last year, established the Bishop of Castres for Italy, appointing him the proper Ordinary of all priests and clerics, both of the secular and regular clergy, who, on the battlefield or in the camps, or in military hospitals, or on ships, during the present war, would in any case render their service.

Therefore, it was ordered by the same decree that all clerics and priests, or

[*Latin ed. p. 267*]

The Sacred Congregation Consistorial has decreed that the aforementioned individuals, even those belonging to regular orders, of whatever order they may be, should obey the aforementioned Bishop as their Ordinary; it is granted to him the faculty to appoint and remove military chaplains, after first consulting their respective Superiors regarding appointments, and after notifying them in the event of removal; and it is permitted to him to appoint vicars or delegates wherever and whenever they are needed for

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the best and most effective fulfillment of their grave duty. It is well known with what tireless zeal the Bishop of Castres immediately set to work, and with what energy and diligence he continues in his mission; thus, the wise provision made by the Holy See has proven to be exceedingly effective and useful, both to the clerics and priests who are part of the military, and to the religious assistance of the army. However, if the experience of a year has demonstrated that the provision made by the Holy See to establish the office of the Bishop of Castres was most opportune, and that he, for his part, encourages the clerics and priests who are part of the military with vigilance and counsel, it has also revealed that it has not yet fully achieved its purpose. Indeed, there are clerics and priests who are part of the army, who, either because of their distance from the Bishop of Castres and his delegates, or for other reasons, do not derive from this beneficial institution all the utility and advantage that would be desirable. Therefore, in order to better guide the military clergy on the path of good and duty, to better safeguard the ecclesiastical spirit in all those who have passed from the seminary or sanctuary into the army, and to ensure that individual Bishops are informed of the conduct of their clergy during their military service, the Holy Father has deemed it necessary to establish the following norms, aimed at coordinating the actions of the Diocesan Ordinaries, the Superiors of regular orders, and the Bishop of Castres in this work of such great importance.

I. – Although all clerics and priests who are part of the military are subject to the Bishop of Castres as their Ordinary within the army; nevertheless, they are not to be considered exempt from the vigilance and protection of the Bishop of the city and diocese where they happen to reside: nor can the Bishop himself exempt himself from this vigilance and protection; but he must exercise it as will be stated in the following articles, with some analogy to what the law has established for religious, who, if they commit some offense outside the cloister, can be called back to duty by the Diocesan Ordinary.

II. – In accordance with this principle, each Diocesan Ordinary shall have careful regard for the clerics and priests who are part of the military who are within the limits of his diocese, and as long as they remain within it, although they are not...

[*Latin ed. p. 268*]

268 Acta Apostolicae Sedis - Official Commentary, concerning its diocesans, or those belonging to some religious Order or Congregation. To this end: a) It will strive to ascertain how many and which of them are found within its diocese, requesting, if necessary, the appropriate information from the office of the Castrense Bishop in Rome; b) It will be vigilant to know where and how the military priests celebrate the Holy Mass; and it will call to duty those who, forgetting that sacred things must be treated

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with reverence, fail to fulfill their duty. And if they celebrate not in the proper manner in the churches of the diocese, it may, after a first or second warning, forbid them from celebrating; but if they celebrate in hospitals or other places dependent on the Castrense Ordinary, it will notify the office of this Prelate in Rome for the necessary measures; c) Likewise, it will be vigilant to ensure that these clerics and priests do not, without necessity, go to "cafés" and public gatherings which are less suitable for the clergy; and it will provide paternal reminders and, if necessary, salutary sanctions (which may even extend to suspension *a divinis* in the most serious cases) in order to keep them away from such places and dangers; d) In cities and places where there is a certain number of military clerics and priests, the local Ordinary will choose a pious and prudent priest, who will convene all of them each week, or at least every two weeks, for a holy conference on the duties of their state. And the Bishop himself, when possible, will seek to participate and personally address them with paternal words of exhortation and counsel. Moreover, nothing would be better than if a place could be offered to the military clergy where they could, during their free hours, gather and spend time in good and wholesome company; e) It will be the duty of the Ordinary to keep track of those who attend these conferences. And likewise, of the names and the religious and moral conduct of each, maintaining an appropriate and confidential register in its Curia. III. - If, may God avert it, some grave offense were committed by a military cleric or priest, the local Ordinary, although having, from his own side, provided for the appropriate warnings, corrections, or punishments, must nevertheless immediately notify both the office of the Castrense Bishop in Rome, and the Ordinary proper of the cleric or priest, and finally (should this cleric or priest, during military service, pass into another diocese), also the Ordinary of that same diocese. IV. - In centers where a Vicar or Delegate of the Castrense Bishop resides, this person must maintain close relations with the Curia and Ord-

[*Latin ed. p. 269*]

I. The Consistorial Congregation, in its desire to promote the common good and the welfare of the military clergy, establishes a reciprocal exchange of information between the local Ordinaries and the Bishop of Castres, so that, by mutual agreement, the greatest and best interests of the military clergy may be diligently pursued.

II. All Diocesan Ordinaries consider it one of their principal duties to maintain, either personally or through priests delegated for this purpose, a truly paternal correspondence with their clerics and priests serving in the military, so that they may thus follow, support, and guide them amidst the many dangers in which they find themselves. The Superiors of religious Orders and Congregations shall do the same with their subjects who are in the same circumstances.

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III. Each Diocesan Bishop and each Superior of religious Orders and Congregations shall, as soon as possible (if they have not already done so), transmit to the office of the Bishop of Castres in Rome the names of their clerics and priests who have been called into military service, adding such information as they deem appropriate, in order to enable the Bishop of Castres to exercise special vigilance over them and to provide more effective assistance to those who need it. Likewise, military chaplains, both of individual mobilized units and of reserve hospitals, who reside in episcopal cities, shall periodically visit the Bishop of the diocese or his General Vicar, for the aforementioned purposes, and for the better fulfillment of their religious duties.

IV. Upon the conclusion of the mobilization, it shall be the duty of the Bishop of Castres to inform the Diocesan Ordinaries and the Superiors of religious Orders and Congregations of any news he has received concerning their respective clerics and priests, whether good or bad, so that they may appropriately regulate their reception back into their jurisdiction. Likewise, each Bishop shall do so for clerics and priests who are not of his diocese, but who have resided for a considerable time in his diocese, if anything special, whether for good or for ill, has been observed concerning them during their stay in his diocese.

V. By the express will and decree of the Holy Father, the present prescriptions have the force and validity of law, and bind all to their full observance, notwithstanding any contrary provisions.

* * *

This Holy Congregation trusts that these norms, which are a testament to the paternal care of the Church and the vigilance of the Supreme Pontiff towards so many young hopes of the Sanctuary and towards so many priests who find themselves amidst dangers, and sometimes even in...

[*Latin ed. p. 270*]

270 Acta Apostolicae Sedis - Official Commentary: May those conditions, conforming to the state of the priesthood, effectively safeguard all within the sanctity of life and the path of duty. And because every human effort is in vain if not united with the assistance of divine grace, let the Bishops and Superiors of Religious Orders and Congregations earnestly pray to the Lord, and let them encourage with fervent recommendations the prayers of the faithful, and especially of religious communities, in favor of the militarized clergy. Given at Rome, from the Secretariat of the Sacred Consistorial Congregation, on June 16, 1916. G. CARD. DE L A I, Bishop of Sabina, Secretary. L..®S. f T. Boggiani, Archbishop of Edessa, Assessor. III APPOINTMENTS: By subsequent decrees of the Sacred Consistorial Congregation, the Most Holy Pope Benedict XV has provided for the following churches, namely: July 8, 1916. — To the cathedral church of Soanensi-Pitilianensi, he appointed the Reverend Recared Carlesi, formerly the general vicar of

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Tivoli. — To the cathedral church of Nursinae, he appointed the Reverend Vincent Migliorelli, archpriest of the cathedral church of Macerata. July 10. — To the cathedral church of Harrisburgensi, he appointed the Reverend Philippus Mac Devitt, Prefect of the parochial schools of Philadelphia. July 15. — To the cathedral churches of Nepesinae and Sutrinae, he appointed the Reverend Aloysius Olivares, of the Salesian Congregation, parish priest of Saint Mary Liberatrix in Urbe. IV NOMINATIONS: By decrees of the Sacred Consistorial Congregation, the Most Holy Pope Benedict XV has appointed the following: July 7, 1916. — The Reverend Vincent Sardi, titular archbishop of Caesarea, as Apostolic Administrator of the diocese of Tivoli. — The Reverend Ioannes Regine, archbishop of Trani and Barola, as Apostolic Administrator of the diocese of Andria, during the infirmity of the Bishop, His Most Reverend Excellency Joseph Staiti, who is prohibited from governing the diocese.

[*Latin ed. p. 271*]

S: Congregation of the Council 271 SACRED CONGREGATION OF THE COUNCIL OF CONCORDIA. JURISDICTIONAL MATTERS. Dated June 17, 1916. 1. Statement of Facts. – The parish benefice of the town commonly called Arsene, in the diocese of Concordia, is subject to the patronage of the family of the Counts of Valvasone. However, in the territory of Venice, a special law prevails, the origin of which dates back to Circular No. C. R. of the Government, dated May 13, 1818, No. 8690-1493 (cited in Saredo, Codice del Diritto Pubblico Ecclesiastico del Regno d'Italia; Part III, p. 1167), by virtue of which, even for parishes subject to patronage, a lay presentation must be made in the Tridentine form, and the patron is obliged to present to the Bishop only those whom a previous presentation has demonstrated to be suitable. It happened that, during the last vacancy of the aforementioned parish, in November 1913, the presentation, having been announced once and again, was completely deserted; whereupon the patron respectfully informed the Bishop that, in accordance with common law, he had the right to present whomever he wished, without a new presentation. However, the Bishop refused, and a third presentation was announced; but again in vain, because the one who had risked the undertaking was not approved by the examiners. Consequently, the same Bishop took the initiative to write to the patron, stating that the parish of Arsene had fallen into a case of free collation, and that, for this reason, the benefice could then only be conferred by the Bishop alone. The patron, in obedience to the Bishop, declared that he « for this time, would refrain » from nominating the parish priest of Arsene; but, in order to preserve the full extent of the right that he considered to belong to him, he brought the matter before this Sacred Congregation of the Council, requesting that it recognize his right to freely choose and present a candidate, after two unsuccessful presentations or presentations

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that had been completed without result. % Summary of the argument presented by the Consultor – It is well known that the form of presentation for secular benefices was introduced by the law of the Council of Trent, Chapter 18, Session XXIV, concerning reforms. Before this law, secular benefices were generally conferred either by free collation from the Bishop, or by a previous simple presentation.

[*Latin ed. p. 272*]

272. The Acts of the Apostolic See – the Official Commentary – states that a patron, whether ecclesiastical or lay, must be recognized as suitable, after a prior examination, if presented in such a manner by the Bishop. The Council of Trent furthermore imposed the obligation of concurrence, but only with regard to parishes subject to free collation, and it did not introduce any changes concerning the lay patronage. Hence, according to common law, even after Trent, "parishes are conferred without concurrence," which are, by right, subject to lay patronage; it suffices that "the presented candidate be examined by the synodal examiners and be judged suitable by them" (Ferraris, v. Beneficium, III, 51, with the common opinion).

3. Furthermore, the Fathers of Trent, with unambiguous words, recognized certain cases in which the law of concurrence would cease to be in effect, even when it was otherwise in force; we read: "However, if the revenues of the said parish are so small that they do not warrant the expense of this entire examination, or if there is no one who wishes to subject himself to the examination, or because of open factions or dissensions, which are found in some places, more serious quarrels and disturbances may easily arise, the Ordinary, if he deems it expedient, according to his conscience, and with the advice of those appointed, may, omitting this form, use another examination, etc." (c. 18, sess. XXIV, de ref.). These words, when read consecutively with the text concerning parishes subject to ecclesiastical patronage, clearly show that they cannot be restricted solely to the case of free collation. When the aforementioned cases occur, the common opinion, supported by the interpretation of the law, is that a return should be made to the law that was in force before the Council. This is expressly stated, with regard to parishes subject to free collation, by Cardinal De Luca (De parochis, disc. II, n. 7): "If the term has elapsed and no one is present, it is within the free power of the Bishop to confer the parish without concurrence to a suitable person who is pleasing to him, according to the common law, to which, as the said new form of the Council ceases, a reversion is said to occur." He cites Garcia, c. % p. IX, m. 218; Barbosa, de Par., c. % n. 51, and in Collect, ad Conc., h. c, n. 70; and this can also be confirmed by numerous resolutions of this Sacred Congregation (cfr. Pallottini, v. Concursus, % 1, n. 35 s.).

However, this norm is not restricted to the case of free collation, and it should also extend to the case of ecclesiastical patronage, as can be deduced

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from the obvious principle that wherever a new law ceases to be in effect, which restricted it, the previously acquired right resurfaces and is fully in force; as we have seen from the text of the law itself, or from the very chapter of the Council, in which the obligation of concurrence is introduced, in some of the cases mentioned therein, even with regard to parishes subject to ecclesiastical patronage, it is permitted that this form of collation, namely concurrence, be omitted.

[*Latin ed. p. 273*]

The Holy Congregation of the Council states: "However, if, etc., the Ordinary will be able... with this form omitted, to deprive..." It does not help to oppose the presumption of law, but rather favors the Ordinary more than the ecclesiastical patron, since it is manifest from the contrary that the Council of Trent, when it introduced the form of concurrence, intended directly to favor the Church, and to restrict the freedom not only of the Ordinary but also of the ecclesiastical patron; however, the favor of the Church always remains, since it must also be presented to the ecclesiastical patron and judged by the examiners to be declared suitable. Furthermore, this is not a matter of granting favor, but of not prejudging the acquired and established right of the patron, which, in the case of a contrary disposition of the law, is not considered to be extinguished (cf. also Pitonium, de Controv. Patron., alleg. V, vol. I, n. 32, where the Holy Roman Rota also cites this opinion).

4. These very principles of interpretation, if they are valid for the general Tridentine law, to which the law of concurrence for parishes is subject, by the same token, should certainly be valid for the particular law, in force in the Venetian territories and elsewhere, by which the same law of concurrence is also subject to the parishes of lay patronage, which the Council of Trent, as we have seen, had freed from this obligation. Indeed, whenever the form of concurrence, prescribed by particular law, cannot be used, a reversion must be made to the common or general law. For, in the first place, in this particular law, a complete equality seems to be established between parishes of lay patronage and parishes of ecclesiastical patronage: hence, whenever the obligation of the law of concurrence ceases for the ecclesiastical patron, and indeed in such a way that, as discussed, a reversion occurs to the ancient law, the same obligation ceases also for the lay patron, who is therefore free to choose and present whomever he wishes to the Bishop, who, after a prior examination, will have him recognized as suitable. It is, however, uncontroversial that there have been cases in which the law of concurrence ceases "if no one is willing to subject himself to the examination," and this has been proven, since a concurrence, once and again, has been unsuccessfully called for or held.

5. Against these points, in the case presented to the Concordian Curia, only the assertion of a contrary custom is raised: "Instead, at least here and

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in the dioceses of the Veneto, there is a custom, now become law, that, if three concurrences are held without result, the election and appointment of the parish priest devolves to the Bishop." And, undoubtedly, if this asserted custom existed, not only with regard to parishes of free collation, which is entirely in accordance with the law, but also with regard to parishes of ecclesiastical and lay patronage, it would be given the greatest weight. But at present, such a custom is asserted only on one side, and denied on the other; and the Curia does not cite except one case in which a parish of ecclesiastical patronage...

[*Latin ed. p. 274*]

Acts of the Apostolic See – An official commentary, and this case proves nothing, not only because it is unique, while custom requires at least the frequency of similar acts; but also because it is at least ambiguous, since it appears from the acts that the collation was indeed made in that case by the Bishop, but with the prior consent of the Patron, "in agreement with the Municipality," and with the preservation of acquired rights, "saving the rights of third parties."

RESOLUTION. – The Sacred Congregation of Councils, in plenary sessions of the Cardinals and Fathers, held on June 17, 1916, regarding the question: "Whether, after a meeting convened and repeatedly adjourned or completed without result, the right to devolve [the benefice] arises, or rather, whether the right to choose and present [a candidate] remains with the Patron in that case," decided that: Negatively to the first part; affirmatively to the second. Furthermore, concerning the aforementioned matters, the Most Holy Lord, our Most Holy Father Benedict XV, received a report through the undersigned Secretary of the Sacred Congregation in an audience on June 19 of the same month and year, and His Holiness approved the resolution of the Cardinals and Fathers.

O. GIORGI, Secretary.

SACRED CONGREGATION FOR THE PROPAGATION OF THE FAITH – APPOINTMENTS.

By apostolic briefs, the following were appointed: July 7, 1916. – The Apostolic Vicar of the central region of Scian, Reverend Father Dominic Massi, of the Order of Friars Minor, titular Bishop of Ioppa, already Apostolic Vicar of the northern region of Scian. – The Apostolic Vicar of the northern region of Scian, Reverend Father Agapitus Fiorentini, of the Order of Friars Minor, titular Bishop of Rusadus.

[*Latin ed. p. 275*]

The Sacred Roman Rota, Act 275, of the Tribunal of the Sacred Roman Rota of Manila, concerning the Pious Legate. During the blessed reign

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of Pope Benedict XV, in the second year of his pontificate, on the 7th of February, 1916, the Most Reverend Fathers William Sebastiani, Dean, and Seraphinus Many and John Prior, Auditors from Tournon, in the case of Manila – Pious Legate, between the Sacred Province of the Most Holy Name of Jesus of Saint Augustine, represented by the legitimate procurator Thomas Ambrosetti, advocate, and the Most Reverend Archbishop of Manila, and also the Reverend Vincent Lapus, parish priest of the place of Candaba, represented by the legitimate procurator Christopher Astorri, advocate, pronounced the following definitive sentence. On the 22nd of April, 1565, Religious of the Order of Discalced Carmelites of Saint Augustine arrived at the shores of the Philippine Islands, and so diligently applied themselves to the preaching of the Gospel, that they deservedly became the apostles of that region. Shortly, they formed a sacred province under the invocation of the Most Holy Name of Jesus, because of the image of the Divine Child found there, dividing it into four districts, or languages, namely, Manila, Pampanga, Reslocos, and Cebu, and in the year 1578, in the town of Candaba, fifteen leagues from the city of Manila, they founded a convent and a church dedicated to Saint Andrew, performing all parochial duties there. After a century from the founding of the religious house, the most pious and wealthy Lady Lucia Gumamela, in her will of the 10th of December, 1679, left two legacies to the sacred province and to the convent of Candaba, with the obligation of Masses, stipulating in clause 115: "I declare... that the lands of the mountain of Masin I inherited from my "father, Don Luca Vitan; these include the territory from where the river of Manila begins, up to the mountain of Bassa, on one side, and on the other, from where the river of Manila begins, descending to Inaptanpinand, and to Cala Vitan, and to the mountain above the river."

[*Latin ed. p. 276*]

276 Acta Apostolicae Sedis - Commentarium Officiale: "From Caulang, lands which are entirely mine, I declare that I donate them as an alms to the province of the Most Holy Name of Jesus of our Fathers [of the] Order of Saint Augustine. At the will of our Provincial Father, chapels shall be founded and Masses offered for my parents, for my brothers... and for myself. But the portion which belongs to Dom Gaspare Balagtas shall be set aside, because he is my co-owner." In clause 116: "I also declare that all my lands in the vicinity, which belong to no one else, I leave as an alms to the parish of Saint Andrew in this town of Candaba, and that the Reverend Father Prior, Father Giuseppe della Croce, at his discretion, shall erect chapels, so that the souls of my parents and my brothers may enjoy Masses." Religious women, members of the Order of Saint Augustine, having completed the division of property with the co-owner, obtained possession of the assigned properties, and fulfilled the obligations imposed upon them in their own church. The situation, after various vicissitudes,

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continued until the year 1898, when the Philippine Islands passed under the dominion of the United States of North America. At that time, the regular churches were forced to relinquish the administration of souls, and were replaced by secular priests. The care of souls in the town of Candaba, along with the convent and church of Saint Andrew, was entrusted to the Reverend Vincentio Lapus; who, on December 31, 1904, brought before the Archbishop of Manila the Augustinian Fathers, claiming that certain properties left by the lady Gumamela belonged to the church of Saint Andrew, and requesting that he, as the parish priest of Candaba, be granted administration of said properties. And on August 14, 1908, a judgment was issued favorable to the plaintiff. From this judgment, the Province appealed to the nearest Bishop, that of the diocese of Nueva Cáceres, according to the Constitution of Gregory XIII, May 15, 1573. The judge of the first instance accepted the appeal, and on August 24, 1908, referred the appellant to the judge to whom, a term of thirty days was assigned for appearance; on September 2, the acts of the process were transmitted to the judge of appeal, and received by him on the 12th of the same month. Furthermore, on October 6, the Bishop of the diocese of Nueva Cáceres, after the expiration of the thirty-day term, and without the Provincial Procurator appearing in any way, notified the judge of the first instance, who, on October 22, pronounced the appeal abandoned, and the judgment in the matter as final. However, two days later, that is, on October 24, the Archbishop of Nueva Cáceres received a writing from the Provincial Procurator, Father Antonio Lozano, in which he requested that he be considered present in order to pursue the appeal; this writing was not accepted, and a decree was issued: "It is declared that the appeal is abandoned, and the judgment of the ecclesiastical tribunal of Manila remains firm and with the force of a final judgment."

[*Latin ed. p. 277*]

277 In Romana, the matter of the lawsuit continues. On December 9th, the special administrator, Joseph Villapol, delivered the assets of the chaplaincy, according to clause 116 of the will, to the parish priest, Vincent Lapus. However, the parish priest refused to accept these assets, claiming that not only these assets, but all assets that constitute what is commonly called the "azienda di Delayap," namely all the assets mentioned in clauses 115 and 116, were to be transferred. The Provincial Procurator requested that a special investigation be conducted to determine which assets were subject to the transfer. However, the judge in Manila, in a new judgment or decree dated January 11th, 1909, did not grant the requested investigation, and under threat of penalties, ordered that all assets be delivered within eight days. The Provincial Father protested against this order of the judge and appealed, but the judge in Manila rejected this appeal, ordering that all assets be delivered within four days. To avoid scandal, the Sacred Province

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complied with the order, while at the same time appealing to the Holy See, where the case is currently being considered under two agreed-upon points of contention: 1. Whether there is a place for a full restitution in the case of the Bishop of Manila of August 14th, 1908. And, assuming an affirmative answer to this question: 2. To whom does the ownership of the disputed assets belong, which were bequeathed by the pious woman, Lucia Gumamela, in the case before the ecclesiastical court?

The first point concerns the possibility of full restitution as a remedy, and therefore the question of whether the judgment of the judge in Manila was valid or not, given the privilege of exemption enjoyed by the Augustinian Fathers, remains. Although the lawyers for the parties involved have touched upon this question in their defenses, the Fathers have stated that it should not be discussed, either directly or indirectly, since it is not permissible to go beyond the limits established in the litigation.

Regarding the remedy of full restitution, which was initially introduced based on natural equity by the Praetor, and later adopted in the sacred canons, it is an "extraordinary remedy of the law, by which a person is restored to the condition, or right, in which he was before the injury." In order for this remedy to be granted, three things are required: 1. That there is a serious and notable injury, according to the judgment of a good man, or a prudent judge; therefore, minor injuries are not considered. 2. That "this serious injury" occurred either through the fault of the adversary, or through the inadvertent negligence of the injured party, or through the negligence of his "procurator," and that this must either be clearly proven, or at least properly demonstrated in court (Reiffenst., in tit. De in integrum restitui., n. 11); 3. That there is a just cause, regarding which a distinction must be made between major and minor cases, or between ecclesiastical entities that are considered to be under the jurisdiction of minors, as expressly stated in chapter 3 of the aforementioned title. The major cases are not restored unless there is a just cause: for example, if they have been prevented from doing so.

[*Latin ed. p. 278*]

278. Acts of the Apostolic See – Official Commentary: Regarding the possibility of appealing, due to war conditions, absence, etc. However, if the matter concerns minors or ecclesiastical entities, a just cause is not required, or rather, it is always presumed, due to the favor owed to the infirmity of age or to religion. By the term "ecclesiastical entities," it is understood not only strictly defined churches, but also benefices, monasteries, religious houses, etc., as is well known. With these points established in law, the Fathers declared that the petition of the Augustinian Province of the Most Holy Name of Jesus should be granted, and that it should be fully restored, both against the judgment of August 14, 1908, and against other acts and decrees of the judge that depend on it. Indeed, the case concerns the Au-

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gustinian Province of the Philippine Islands and the convent of Candaba, which, as we have said, enjoy the rights of minors. For minors, it is sufficient that there be a serious injury and negligence, or ignorance, on the part of the administrator. That a serious injury has occurred is evident in itself and cannot be disputed. The judgment imposed a very heavy burden on the Augustinians; and the appeal that they interposed against it was rendered futile, because, due to the ignorance or negligence of those who represented the Province, whatever their title, the fatal consequences of failing to pursue the appeal, namely, the thirty-day term prescribed by the Judge of Manila, were rendered useless. Therefore, without seeking further, it is clear that the restoration in full is to be granted in this case. In chapter 5, title "De rest. in integr.," Innocent III restored the monks of Rothon because their administrator neglected to present certain documents: "lest his negligence should harm both us and the monastery." Nor should it be said that the Augustinians were obliged to request this benefit of restoration from the judge of second instance, i.e., the Bishop of Cáceres. For, besides the fact that here the appeal was abandoned, the cause was rejected, and the judgment of Manila was declared to be final. The petition for restoration in full "must be presented either before the tribunal of the judge who rendered the judgment, or before the tribunal of the superior judge" (St., in tit. De rest. in ini., n. 13). By the term "superior judge" is meant not only the judge of appeal, but also the Apostolic See, which has concurrent jurisdiction with all Ordinaries, and to which one can appeal not only in the third or final instance, but also in the second. Furthermore, it cannot be said that the Sacred Roman Rota is incompetent according to canon 14, n. 4, of its own law, which reads: "It also examines appeals for restoration in full from any judgments that have become final in the matter, and it finds a remedy before the judge of the second instance, according to title 'De rest. in ini.,' unless it is denied that the matter is finally judged by the judgment of the Sacred Roman Rota, and in these cases it judges both in law and in fact."

[*Latin ed. p. 279*]

S. Bomana Bota 279 nini verba «quae...remedium invenire non possunt», intelligenda sunt de alio remedio, non vero de in integrum restitutione, secus inutilia prorsus essent, et potestas concedendi restitutionem tantum exerceri posset, quando restitutio in integrum iniuste a iudice secundae instantiae recusata fuit, et recursus interpositus fuerit ad nostrum Auditorium. Verum hac unica in hypothesi Rota erit competens non vi § 4, sed vi § 5 eiusdem canonis 14, scilicet per legitimam appellationem a sententia iudicis secundae instantiae. Ne itaque dicamus legislatorem frustraneam concessisse potestatem, admittere debemus Rotae competentiam quoad restitutionis beneficium, etiam in casu, quo huiusmodi remedium peti et obtineri posset a iudice secundae instantiae.

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Quoad secundum dubium, DD. Patribus placuit ante omnia determinare naturam legatorum, de quibus agitur. - Cl. Berardi, in suis Commentariis in ius ecclesiasticum universum, vol. i, p. 441, haec habet: « Distat capellania ab anniversariis ceterisque piis defunctorum relictis, « quod in capellania certi fundi demonstrantur, atque a patrimonio, « seu hereditate fundatoris, segregantur, quasi dos eiusdem capella« niae adsignanda capellano, sed in anniversariis ceterisque piis relictis, « praecipua habetur personalis obligatio heredibus imposita, etiam sine « ulla designatione fundorum; quod si quandoque contingat certos fun« dos pro executione pii relicti demonstrari a fundatore, haec tamen « demonstratio non eo refertur, ut indicetur fundos eosdem esse veluti « certam rem ab hereditate separatam, quasi dotem pii operis instituti, « sed eo, ut noverint heredes, quibus ex fundis quantitatem « debeant ad executionem piae voluntatis, vel noverint heredes manere « apud se praecipuam personalem obligationem, fundosque designatos « esse causa pii relicti hypotheca obligatos ».

Ex his patet dominam Gumamela in clausulis 115 et 116 sui testamenti non veras nec proprias capellanías fundasse, sed tantummodo constituisse anniversaria, aut salaria cum onere missarum. Nec alio sensu, uti par erat, legatarii interpretati sunt testatricis voluntatem. Constat enim quod, acceptis piis legatis, et habita potestate a capitulo provinciali, P. Ioseph de la Cruz, utpote Prior conventus Candabensis, die 25 ian. 1681, ex praedio Marimla quandam partem segregavit, ut ex eius fructibus piae foeminae voluntas ad exsecutionem mandaretur. Ulterius anno 1695, P. Bonaventura de Bejar, visitator ac procurator generalis, de mandato P. Generalis Francisci Gonzalez, per instrumentum a notario publico confectum, citatis omnibus proprietariis finitimis, quorum intererat, et condomino Gaspare Balagtas coram testibus, qui deposuerunt de agris Luciae Gumamela pertinentibus, ipsorum agrorum possessionem coepit « per...»

[*Latin ed. p. 280*]

280 Acta Apostolicae Sedis - Official Commentary: "The sacred Province and the convent of St. Andrew in the town of Can"daba". Furthermore, if she had established chaplaincies by testament, all the goods bequeathed by her would, according to clauses 115 and 116, constitute the endowment of the chaplaincies, and Father de la Cruz would not be able to set aside any portion "for the fulfillment of the aforementioned obligation" (namely, the celebration of Masses); and Father Bonaventure subsequently proceeded to acquire possession of the entire estate of the Lady Gumamela in favor of the Province and the local convent of Candaba. Considering these matters, the Fathers did not deem it doubtful that the goods contained in clause 115 belonged to the Province of the Most Holy Name of Jesus of the Order of St. Augustine. Indeed, on October 20, 1905, the Reverend Vincent Lapus protested in clear terms that the matter concerned not the lands of clause 115, which undoubtedly belonged to the Province: "It is not disputed," he

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said, "that the bequest of clause 115 pertains to the Province; what is disputed is the bequest of clause 116." And the new Patron, in his initial statement, wrote: "But in this case, it is held that the Lady Gumamela, in her 'Eremitan' testament, benefited the Province of St. Augustine with a very generous bequest, and this bequest was left in favor of the entire Province of Manila of the religious of St. Augustine, so that even those brothers, then called 'doctrinarii' or missionaries, who ministered to the parishioners of Candaba, might benefit from it. Subsequently, the Lady Gumamela left a bequest in clause 116 of her testament, concerning which there is a dispute." In a subsequent response, number 17: "We admit that the bequest (of clause 115) was made to the Province, but the question is not regarding the goods of this clause; it must be known to whom these goods belong today, and by what title. And we immediately answer this question, asserting that these goods belong to the parish by virtue of an assignment made to it by the religious themselves, and by virtue of prescription, exceeding a century." Therefore, there are two titles by virtue of which, according to the new actor's Patron, the aforementioned goods were acquired by the parish: namely, the assignment made to the parish by the religious themselves, and prescription or acquisitive prescription. As for the assignment, the Patron presented no proof, except a negative one, in this way, number 19: "And it is certain that this (assignment) took place, as is proven by the fact that in the year 1774, the Archbishop of Manila deprived all the religious of their parishes, and all the goods in question were included among the parochial goods and not among the goods of the Province, so that in the inventory of the aforementioned revenues presented to the Manilensi Curia in the year 1780, these goods are not mentioned in any way." But the silence of the inventory regarding the goods of the Province is easily explained if one considers that the Province was expelled from its houses in the year 1771, and its goods were plundered, as is evident from a decree.

[*Latin ed. p. 281*]

The Roman Rota, in its judgment of October 23, 1771, concerning the Philippine Islands, states: Therefore, these properties were not included in the inventory of 1780. Furthermore, it is established that the Province always possessed these goods, notwithstanding any dispossession; indeed, we read in the provincial chapter of May 1, 1784: "We grant to the convent of Manila all the properties and goods which the Province possesses in the town of Candaba, with the obligation of fulfilling the burdens attached to them." Therefore, it is certain that the aforementioned Province did not assign these goods to the parish, but rather retained them as its own, or as belonging to its convents. Any alleged assignment, whatever its title, whether gratuitous or onerous, would have been entirely invalid and null, lacking the Apostolic approval, of which no trace has ever been found. Regarding prescription, it certainly could not have begun before the year

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1771, because, as has been said, the Augustinians were expelled from their seats and properties, and this violent state of affairs persisted until the year 1826. In that very year, by royal decree of June 8, it was stipulated that the Augustinian parishes, like other regular parishes, should be restored, but the actual restoration was not immediately carried out everywhere, so that in the town of Candaba, the secular priest, Don Anicetus de Mercede, remained in charge until his death, in the year 1854. It cannot be said that during this period, from the year 1826 to the year 1854, the aforementioned secular priest, Don Anicetus, possessed the goods in question, but rather that the Archbishop of Manila assigned these goods to the aforementioned priest by virtue of a judgment of June 24, 1834. Indeed, this judgment cannot prejudice the Augustinians, since the case was decided in the presence of both parties, not against the Augustinians, but against the heirs of Lucia Gumamela; hence, the principle applies: "What is done between others should not harm others," which is taken from Roman law, Book 6, Title 63, On Judgments, Chapter 42, Book 1. Furthermore, even if it is admitted that prescription could have begun in the year 1826, when the Augustinians were restored to their properties in Candaba in the year 1854, there remains only a period of 28 years, which certainly is not sufficient; it is well known that in prescription against the Church and legal entities assimilated to it, such as convents and religious institutions, a period of forty years is required, as is evident from chapters 1, 6, 8, and 9 on prescription. It is not valid to say that the Augustinian priests, who were restored to the parish of Candaba in the year 1854, possessed the goods in question, not as regulars, but precisely as secular priests, and therefore that the aforementioned prescription began in the year 1826 and continued until our time, which seems to be the case from the agreement granted in the year 1894 to Father Stephen Ibeas, the regular priest of Candaba. Thus, according to the plaintiff's representative in the new response, number 22, we read:

[*Latin ed. p. 282*]

282 Acta Apostolicae Sedis - Official Commentary on the letter of the director general of the civil administration: "It has been brought to the attention of Father Stefano Ibeas, Reverend Pastor of the people of Candaba, province of Pampanga, regarding the settlement with the state concerning certain lands which this administrator of the chapel possesses in his church in the district of Delayap, within the jurisdiction of this parish and province."

In the first place, the term "masses" is improperly used in the aforementioned settlement, and this term is called "capellania" [chaplaincy], and this does not happen only in this place, but many times, so that perhaps this impropriety of the name has been the cause of the present controversy.

Secondly, it must be demonstrated that the true title of property or possession does not arise from a simple letter from some royal administrator,

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which refers only to the administrative act itself, carried out without due process, as is the case with the cited letter.

Finally, the plaintiff himself, D. Vincent Lapus, in his supplication presented to the Manilensi Curia on December 31, 1904, acknowledges that all the assets of the "azienda Delayap" are now administered by the Augustinian Order. In his own words, as reported in the cited judgment: "The current pastor of the town of Candaba presented a petition whereby it is declared that the pastor of Candaba has the right to administer, enjoy, and bear the burdens of a chaplaincy established on certain lands located in the territory of Delayap, which are currently administered by the Augustinian Corporation."

Therefore, the ultimate status of the assets in question, which status clearly determines the meaning of the settlement of 1884, and which dates back at least to the year 1814, in which the PP. Augustinians returned to the parish of Candaba.

From all of this, it must be concluded that the assets of the testamentary clause 115 were neither bequeathed to the parish, nor were they acquired by it through assignment or prescription; therefore, just as they were originally bequeathed to the Province, so they remain today the property of the same Province.

Regarding the assets of the testamentary clause 116: the Reverend Fathers also affirmed that these assets should be assigned to the Augustinian Fathers. And rightly so.

1. Indeed, this is derived from the wording of the same testamentary clause: "I leave in alms to the convent of the Blessed Saint Andrew," etc., with these words it is clear that the testator bequeathed her assets not to the parish, or to the church, but to the convent.

It cannot be said that by "convent" one should understand the very parochial house, according to the custom of that region, in which, since the beginning, missions, or parishes, were administered by regular priests, and the houses in which they lived were called "Convents," a name that remained even when regular priests were succeeded by secular priests.

However, a) when we are dealing with a will drawn up before a notary, who certainly understood the legal language, the word "convent" must be understood in its legal sense.

[*Latin ed. p. 283*]

1. The Roman Rota has stated, and it is also the natural and obvious meaning, that [a certain legal matter] pertains to [a specific entity]; (b) it would be utterly ridiculous to bequeath goods to a simple dwelling; for such a dwelling is not subject to, but rather the object of, law and dominion. Furthermore, the assertion that the Provincial [official] had already made a substantial bequest in clause 115, and therefore should

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be presumed to have intended in clause 116 to benefit not the regular [order], but the parish, is without merit; for the words are clear and require no interpretation. Hence, in the provincial chapter of 1680, the Fathers understood the bequest as being made not to the parish or mission, but to the regular community: "We grant authorization to the Provincial [official] so that he may accept the chaplaincies which were founded by the Venerable Lucy Gumamela for this province and for our convent of Candaba." This is also demonstrated by the document of June 2, 1681, in which the aforementioned clause 116 is put into effect. In the dispositive part of this document, Father Joseph of the Cross, Prior of the Convent of Candaba, in the name of the Reverend Provincial, established a bequest in the church and convent of Saint Andrew, and to avoid any ambiguity, he repeated the words "church and convent" three times, stating that the goods were "of the convent and should remain the goods of the convent," and these very goods were burdened with the obligation of annual masses, so that the Prior of the convent was obligated to celebrate these masses. These are the words of Father Joseph of the Cross: "He declares that from this moment, he imposes, assigns, and forever establishes in the church or convent under the invocation of Saint Andrew, which is endowed with the aforementioned 45 cabalitas [units of weight], with the aforementioned tin [items], in the quality of Prior, that he is of this convent, so that as the goods of this convent, they should be known and held, and in view of these, from now and forever, the aforementioned Reverend Prior of the convent of Candaba and those who will succeed him... shall say each year the aforementioned 8 masses... with the revenues and produce from the aforementioned arable lands, which at present will remain as the goods of the convent." Surely, nothing could be clearer. Nor can it be said that Father Vincent of the Cross declared in the same document: "Lucy Gumamela left it stipulated in clause 116 that the church of Saint Andrew in the town of Candaba should be burdened with 45 cabalitas of 'cultivated land'; " for these words are found in the narrative part of the document, which, as is well known, must always be explained and interpreted in accordance with the dispositive part, which alone constitutes the law.

2. The assertion is confirmed by the instrument of the acquired possession of the goods in question; and also by the documents that refer to the acquired possession. On July 27, 1690, the mayor judge of the province of Pampanga decreed that possession of the goods and lands of Marimla should be granted to...

[*Latin ed. p. 284*]

284 Acta Apostolicae Sedis - Official Commentary of the Holy Province, then to the assembly of Candaba: "He ordered that possession be given to the aforementioned province and to the aforementioned convent of Candaba, and in their name to the Reverend Fathers, Friars John of Otaiza."

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However, due to the absence and then the death of the notary, the execution of this decree was further delayed. Father Bonaventure of Beyar, General Procurator of the Augustinian Province, petitioned that this execution finally be carried out, and these are his words: "I request of Your Holiness that you order that I be given legal possession of the aforementioned lands, according to the aforementioned documents, both with respect to the aforementioned convent, and with respect to the aforementioned Province of the Most Holy Name of Jesus, as owners of those lands." Therefore, on May 31, 1695, the Major Judge of the Province of Pampanga replied, ordering that, after notifying those concerned, possession be granted according to the request. And indeed, after a few days, on June 7, the aforementioned possession was solemnly given before all those concerned. This is recorded in the document: "On Tuesday of this month of June, at 3 o'clock in the afternoon, possession was given to the Reverend Father Visitor, Father Bonaventure of Beyar, General Procurator of the Province of the Most Holy Name of Jesus, for the aforementioned province and for the convent of Saint Andrew in the aforementioned town of Candaba, of the aforementioned lands named Marimla and Delayap," and then the boundaries of the lands are described. Furthermore, these words are even more clearly illuminated: in these legal, authentic, and public instruments, the matter concerns the very convent of Saint Andrew, and the goods are attributed to the convent itself, and possession is given not to the parish priest, or rector of the church, but to the general procurator of the province, in the name of the province and the convent. Certainly, if the goods belonged to the parish church, or, which is the same thing, to the parish, or to the mission of Candaba, the judge and the notary would have used different words in the aforementioned public documents.

4. Another argument is derived from the tenor of the so-called agreement, which the Augustinian Province entered into with the Government, in order that its ownership of its property be publicly recognized. On September 16, 1692, the judge of the kingdom, presiding over these agreements, requested the Provincial of the Augustinians, and ordered him to present, through his general procurator, all the titles of the Order's possessions in the Philippine Islands, so that an agreement could be reached. On September 22 of the same year, the Provincial complied with the order, preserving the regular immunity; and therefore, the Father Cambara appeared, given and in the name of the general procurator of the province, presenting the aforementioned titles; and thus, the decree of the agreement was made on July 5, 1698. Furthermore, in this decree, the following is read: "And likewise, certain high and low lands on Mount Maysin... are the property of the convent of Candaba in the province of

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Pampanga..." which are commonly called...

[*Latin ed. p. 285*]

The Roman Rota, number 285: "They are called Marimla and Delayap, lands left in her will to the aforementioned 'province or convent' by the hand of Lady Lucy Gumamela... who founded a chapel on said lands." From these most clear formulas, it is inferred that the ownership of the goods was not granted to the church, the parish, or the mission, but precisely to the convent. Therefore, it must be concluded that the owner of those goods is the convent, which is all the more evident because the titles of ownership for these goods were requested by the Provincial of the Augustinians, and were presented by him, and an agreement was made with him. Certainly, if the goods belonged to the parish or the mission, the titles of ownership would have had to be requested from the bishop, or extracted from the archives of the parish or mission, and presented by the bishop or the parish priest, and an agreement would have had to be made with them, not with the procurator of the Province.

5. To this must be added the long-standing observance and prescription, which runs from the year 1679, when the bequest was made, up to the year 1771, when the Augustinian Fathers were expelled from their houses and goods. For in this very long period of time, the goods in question were always administered by the Augustinians, and were always held as the goods of the Augustinians, not as the goods of the parish or the mission. This is clearly demonstrated by the acts of the chapters of the Holy Province of the Most Holy Name of Jesus. Thus, in the chapter of the year 1695, it was stipulated that the estate of Delayap should be administered by the Province, to which it belonged. In the chapter of 1699, the administration was entrusted to the Prior of the convent of Candaba, with the obligation of celebrating the attached masses and paying a tenth of the income to the Province. In the chapters of 1704, 1710, and 1725, taxes were imposed on each convent of the Province, with the exception of the convent of Candaba, for the benefit of the Province. In the chapter of the year 1784, due to the serious consequences arising from the persecution against the religious, the administration, and indeed the ownership, of the goods of the convent of Candaba was transferred to the Manilensi convent, with the obligation of fulfilling the obligations of the masses. From this observance arises a prescription in favor of the Augustinian Fathers, which, according to the well-known axiom of law, constitutes a better title than any other in the world. Nor does anything invalidate this prescription, even the possession of said goods by secular parishes from the year 1771 to the year 1829, or even 1854; for this possession can have no validity against the Augustinian Fathers for the reasons stated above, when speaking of the ownership of the goods in clause 115. Therefore, all the goods and all the fruits of clause 115 must be restored to the Augustinian Fathers. With regard to the restitution

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of fruits, the Fathers have said that common law must be observed. Therefore, if we are speaking of fruits received after the requested restitution in full by the Augustinian Fathers, all the fruits must be restored; and this must also extend to the fruits of...

[*Latin ed. p. 286*]

The official commentary of the Acta Apostolicae Sedis, number 286, concerns items which must be restored in another form, for example, in money. The reason is that, "once the process of restitution has begun, the possessor, with respect to the 'thing' from which he received the fruits, is considered, by a fiction of law, to be in 'bad faith'" (Reiffenst., title De in integr. restit, n. 131). If we are speaking of fruits received before the requested complete restitution, those which have been acquired by a three-year prescription are not to be restored; for this three-year prescription is valid against all property, even that of churches and religious institutions, as is accepted by all. However, those fruits which have not been acquired by a three-year prescription are to be restored, provided they have not been consumed (Reiffenst, loc. cit., n. 134). It should not be said that in the case of D. Vincent Lapus, the goods were possessed in good faith, and that the possessor in good faith made all the fruits his own; for this concerns a special institution, namely, complete restitution, which is governed by its own laws, and therefore the theory of good-faith possession cannot be applied to it. This is also noted by d'Annibale (Summula, vol. 1, n. 420, n. 26, third edition). It should be noted that "fruits" are to be understood after deducting expenses, as it is said in book 1, section 36, paragraph 5, De hereditatis petitione: "Fruits are understood to be after deducting the expenses incurred in seeking them out, obtaining them, and preserving them." Having considered and diligently pondered all of the above, We, the undersigned Auditors, sitting for the Tribunal and with only God before our eyes, invoking the name of Christ, decide, declare, and definitively sentence, answering the proposed questions: To the first question, affirmatively; to the second question, the ownership of the disputed property (with its fruits) bequeathed by the pious woman Lucia Gumamela belongs to the Augustinian Fathers of the Province of the Most Holy Name. We decide that the judicial expenses are to be compensated between the parties, and that they are to be considered as compensated. Thus we pronounce, ordering the ordinary officials of the places and the ministers of the tribunals to whom it pertains, to enforce this our definitive sentence, and to proceed against those who resist, according to the norms of the sacred canons, and especially chapter 3, session 25, on Reform, of the Council of Trent (Tridentini), using the executive and coercive means that are more effective and appropriate for the circumstances. Rome, in the seat of the Tribunal of the Holy Roman Rota, on the 7th of February, 1916. L. Cfa S. William Sebastiani, Dean, Seraphinus Many, Ioannes Prior. From the

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Chancery, on the 9th of March, 1916. Sac. T. Tani, Notary.

[*Latin ed. p. 287*]

287 Apostolic Signatura: THE SUPREME APOSTOLIC SIGNATURE TRIBUNAL OF SALUTZIO RIGHTS, concerning either the validity or nullity of a Royal Sentence, concerning the Reverend James Conte, Archpriest Canon, represented by his legitimate procurator, Hadrian Aloisi-Masella, advocate, and the Reverend Chapter of the Cathedral of Saluzzo, represented by his legitimate procurator, Vincent Sacconi, advocate. In Saluzzo, which is in the diocese of Turin, the parish church was formerly known as the parish of the Blessed Mary. In the year 1483, on the twelfth day before the Kalends of February, Cardinal Dominic della Rovere, Bishop of Turin, Legate of the Apostolic See in Sabaudia and in certain other provinces, issued letters which begin: "Through the immaculate footsteps of our Lord Jesus Christ." By these letters, he erected the aforementioned parish church into a Collegiate. Furthermore, in the year 1511, it was raised to the status of a Cathedral by Pope Julius II. The Apostolic Legate decreed that the care of souls should belong to the Archpriest, who held the fourth position in the Chapter; this position became the third after the erection of the Collegiate into a Cathedral. Between the Archpriest and the Chapter, controversies were not lacking over time. Recently, a question has been raised, particularly concerning habitual and actual care, which was debated three times before the Royal Court. The first sentence favored the Archpriest, while the second was adverse to him. He then challenged this second sentence, issued on July 1, 1913, before the third turn of the Royal Court. Therefore, the controversy was presented under the customary formula of doubt: Whether the Royal Sentence of July 1, 1913, should be confirmed or annulled in this case, and on July 15, 1915, the response was issued: Affirmative to the first part; negative to the second. To resolve the doubt, the judges of the third turn proceeded to examine each of the points involved in this controversy, applying specific responses to each, as follows. Indeed, the five doubts, agreed upon at the beginning of the dispute, were as follows: 1. Whether, under all circumstances, the habitual care of souls belongs to the Chapter or rather to the Archpriest in this case. 2. Whether the Archpriest in this case is entitled to the entire actual care, to be exercised exclusively and independently of the Chapter.

[*Latin ed. p. 288*]

Acts of the Apostolic See - Official Commentary ^88 3. Must an archpriest be a true parish priest, and can he exclusively represent the parish before the Chapter? 4. In what manner, and to what extent, does the governance of the Cathedral Church pertain to the Archpriest in the case of the Chapter? 5. Does the Archpriest have the right to reside in a house adjacent

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to the Cathedral Church, and to adapt that house for residential use at his own expense, independently of the Chapter? The judges of the third panel answered the proposed questions as follows: To question 1, affirmative to the first part; negative to the second. To question 2, the Archpriest has the actual and complete care [of the Cathedral Church], saving, however, the four rights previously judged to belong to the Chapter by ancient and immemorial prescription [NB. The four rights in question are: the right to say Mass in the presence of a corpse, the right to bless houses during the Paschal season, the right to preach, and the right to hear the confessions of the faithful]. To the first part of question 2, negative. To question 3, the governance of the Cathedral Church pertains to the Chapter. To question 4, the governance of the Cathedral Church pertains to the Chapter. To question 5, negative. Against this judgment, an appeal was presented by the Archpriest before this Supreme Tribunal, under these doubts: 1. Is there any ground for a total judgment, or for its annulment in this case? Or, to put it another way, is there any place for restitution in integrum within his jurisdiction in this case? On May 13, 1916, in plenary sessions held in the Vatican, with the Most Reverend and Most Reverend Father Francis of Paula, Cardinal Cassetta, presiding, the following question was subjected to careful examination. The decision of the Most Eminent Fathers, at the request of the parties, became publicly binding by order of the Most Reverend Cardinal Prefect. QUESTION 1. - Is there any ground for a total judgment, or for its annulment in this case? Since the appellant did not even touch upon the question of nullity itself, the Most Reverend Fathers observed that the complaint could be reduced to only two points: whether the impugned judgment (a) manifestly violates the law, or (b) has induced a perversion of facts. It should be noted that, in this lengthy controversy, the appellant's objections did not extend to all five of the aforementioned doubts, but were limited to doubt number 2 alone, while the remaining three are accessory. Indeed, almost all of the appellant's arguments relate to the first series [of arguments].

[*Latin ed. p. 289*]

289. Regarding the violation of law, and also concerning another series of arguments (based on perversion of facts), there are two points of doubt, which pertain to habitual care; concerning the second doubt, which pertains to the actual exercise of care, only one argument is presented, which will be discussed later in the first series. Furthermore, it should be noted that, as is proper, the appeal directly seeks only to overturn the judgment of the third panel; but since this judgment is often supported by broader arguments from the second panel, it can be challenged indirectly as well. With these points established:

a) Regarding the manifest violation of law, the following arguments have been presented:

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I. The presumption of law was not invoked correctly, namely, that habitual care of souls belongs to the Chapters in Collegiate Churches, especially since this presumption ceases, indeed is reversed, whenever it is a matter of Cathedrals, as in our case.

II. The interpretation given by the judges to the words "to whom 'cura animarum' pertains" must be rejected, according to which the judges contended that these words in ecclesiastical documents usually refer only to the actual care of souls. This interpretation is all the more to be rejected, since 'cura animarum' is said to pertain not to a person with a specific dignity, but to dignity itself in an abstract sense.

III. The arguments presented by the judges, distinguishing between habitual care and complete and universal care of souls, cannot be accepted.

IV. The proposition that a Chapter can, in general, acquire the right by prescription to exercise a part of the actual care of souls, cannot be sustained, since it has been rendered impossible by the Council of Trent.

b) Regarding the perversion of facts, the following arguments are summarized in the appeal:

I. It is stated that the goods of the rectory passed into the endowment of the Collegiate Church, which is not in accordance with the truth.

II. The judges neglected to consider the Bull of Sixtus IV.

III. It cannot be asserted that the Chapter exercised the right to appoint the Archpriest for a very long period of time.

IV. The habitual care of the Chapter was asserted by the judges based on a few reports from Bishops to the Holy See, while other similar reports were omitted.

V. There was confusion and inversion in the assessment of the titles by which the Chapter receives tithes, while the Archpriest receives the fourth of the funeral expenses.

a) The Fathers have examined the arguments of the appeal based on law and have found them to be unconvincing. Indeed: Regarding I, there is no doubt that the entire question is linked to the demonstration of the principle placed by the judges of the second and third panels at the foundation of their judgment, namely, *ACTA*, vol. VIII, n. 8.

[*Latin ed. p. 290*]

290 Acta Apostolicae Sedis - Official Commentary on the position regarding the presumption of law concerning habitual care among Chapters. Indeed, the Most Reverend Fathers recognized that such a principle is legitimate. The Sacred Roman Rota, in fact, has regularly observed that when a parish church is erected into a collegiate church, at least the habitual care of souls, by common law, passes to the Chapter, and this has been amply demonstrated both by the doctrine and by the jurisprudence of the Roman Curia. This, in fact, happens regularly, it added, because the doctrine does

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not claim a place for itself where it is established that the Supreme Pontiff has manifested his will otherwise in establishing the college. However, to determine whether, in the case in question, it is established or not that the Pontiff has a different will, the very judgment stated that it is necessary to examine the document of the erection of the parish church into a collegiate church. And if this does not fully demonstrate that the Supreme Pontiff, either by himself or by his Legate, has derogated from the common law, the judges ruled that it is necessary to resort to conjectures, presumptions, and supporting evidence, according to the commonly accepted rule and admitted by the parties in dispute. These are, indeed, rightly said. However, the appealing party insisted that at least the presumption of habitual care cannot be applied to the Chapters of Cathedral Churches. Since the Church of Salutiarum has been a Cathedral since the year 1511, it follows, it concludes, that with regard to it, the presumption of law favoring the Chapter ceases to apply. This difficulty was foreseen in the judgment of the second instance and briefly resolved through consideration of the facts, namely that the erection into a Cathedral caused no change in the status of the Church with regard to the care of souls, of which nothing is written in the Bull of erection into a Cathedral. This response, since it concerns the assessment of the facts, is definitive, and therefore, there is nothing for the Supreme Tribunal to say on the matter. However, it pleased the Most Reverend Fathers to consider more deeply the force of the exception raised in terms of law with regard to Cathedral Churches. They declared that the aforementioned presumption of habitual care in the Chapter cannot be urged with regard to Cathedral Churches - considering their particular origin and constitution - by the same general rule as in collegiate churches, although very often in the same Cathedrals the habitual care resides in the Chapter or sometimes in some Dignitary, while the actual care is exercised by a Vicar, even a perpetual one, as expressly stated by the Council of Trent, Session 7, on Reforms, Chapter 7. II. The Most Reverend Fathers considered the interpretation of the words of the Bull of erection of the collegiate church, to which the care of souls pertains, which was adopted by the judges in order to determine whether, in the case, the presumption...

[*Latin ed. p. 291*]

The aforementioned Apostolic Signature 291 yielded to truth, and therefore it is entirely correct, and this other argument of the complaint must also be rejected. Indeed, both opinions having been examined, the Author, with learned doctrine and clear jurisprudence of the Roman Curia, rightly determined the meaning of the words in the Bull: and in it (the Collegiate Church)... the Archpresbyterate, to which the care of souls pertains, brought forth abundant evidence, demonstrating that, through those words in ecclesiastical documents, not a universal care, but only an actual care of souls is indicated. Against this interpretation,

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the appealing party raised an objection, citing certain passages from the Council of Trent, as if in those passages similar words designate a full and complete care of souls, and therefore, whenever those words occur, they must be understood to mean a full and complete care of souls. The passages cited are: a) Session 7, Decree, Chapter 8; b) Session 21, Decree, Chapter 8; c) Session 25, Decree concerning Regular Canons, Chapter 11. However, this objection is not sustainable. For, in the first place, such an interpretation is not credible with regard to the aforementioned passages, if one considers what the Council itself establishes in Session 7, Decree, Chapter 7, concerning the institution of even perpetual Vicars, to which that interpretation would be contradictory. Furthermore, this explanation is excluded by the context of the passages cited. For, in those passages, the discourse is not expressly about the care of souls, but only incidentally and, as it were, historically, although the wording is materially the same. Indeed, in the aforementioned passages, the subject is, respectively, the apostolic visitation of exempt churches, the jurisdiction, the right of visitation and correction pertaining to Bishops with regard to monasteries that have the care of souls, and the obligation of those holding multiple offices or churches to present dispensations granted to them for this purpose to the Ordinary. It is therefore clear that the intention of the legislator there was not to teach us about the fullness or limits of the care of souls that belongs to physical or moral persons, nor to decide anything about these matters. Therefore, it must be said that, in the passages cited, that expression signifies a care taken in a general sense, and must be understood according to the variety of cases, in accordance with the principles of law. Otherwise, the case is different, when in some document of the erection of a certain College or the erection of a parish into a Collegiate Church, the Superior expressly determines the granting of the care of souls. In this case, when he speaks of the Church, the College, the dignities, the prebends, etc., which he enumerates, he certainly intends a specific meaning of the words. However, he should not be concerned about assigning a title of care, about which the law or the presumption of law has already established, but only about entrusting the exercise of care to someone; and therefore, it is quite obvious that, through a single formula which he uses with respect to one of the enumerated items and not with respect to the others,

[*Latin ed. p. 292*]

292 Acta Apostolicae Sedis - The official commentary does not intend to designate any purpose other than the actual one. From all of these things, while the interpretation of the recurring part is removed, the judgments are again confirmed. Furthermore, the argument derived from the recurring part, based on the supposed confusion committed by the judges between the abstract name "Archipresbyteratus" and the concrete name "Archipresbyter," is invalid, as if the distinction had been maintained, it would clearly

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have appeared that the "Archipresbyteratus," to which the care of souls is said to pertain in the document of erection, does not correspond to a dignity that involves only a complete and integral care, and certainly not merely actual care. For a) no confusion occurred, as is evident from reading the judgments, in which the words of the Bull are faithfully reproduced; b) even if those names were sometimes used promiscuously, no possible inconvenience resulted from it, because the judges did not base their argument on the very force of the abstract or concrete name, but on other grounds, from which the distinction in question is reduced to a mere subtlety in this case; c) if the meaning of the abstract name were to be taken strictly, the argument against the appellant would be refuted, because the dignity considered in the abstract, if in a hypothetical case it excluded actual care, would also have to exclude complete and integral care, which includes actual care, and could only be compatible with mere habitual care, although the appellant rejects this. Therefore, the appellant must also reject, as being too evident, the hypothesis from which the argument proceeds. Therefore, the judges of the third round rightly concluded, considering the Bull of erection of the Collegiate Church of Salutiarum, that the Apostolic Legate did not derogate from common law, and this negative formula certainly contains the truth with sufficient caution and discretion. Regarding III. It cannot be said that the signs of both habitual care and complete and integral care of souls were enunciated ineptly by the judges. Indeed, this statement was made when the judges, in order to strengthen their previous demonstration, said that it was necessary to refer to conjectures, presumptions, and other additions, which is certainly a very reasonable criterion. However, these conjectures, presumptions, etc., favored habitual care, and were reduced by the same judges to the following: a) the confirmation of the assignment of all the goods of the parish to the dowry of the Collegiate Church, confirmed by the fact of the possession and administration of those goods by the Chapter; b) the right to tithes exercised for many centuries under the title of parish; c) the provision of equality among the canons, including the Archpriest, if certain uncertainties are excepted;

[*Latin ed. p. 293*]

d) The Apostolic Signature grants the right to present the Archpriest; the person 293 must be suitably appointed in the vacant position; e) The right of the Chapter to represent the parish before the Bishop, the municipality, and in all courts, bearing the necessary expenses for this purpose, etc. Furthermore, the rights, prerogatives, and obligations of the Chapter, as determined by the judges of the third turn, are considered to be those of the principal rector, who, indeed, has habitual care, so that it can be clearly affirmed that this habitual care exists. Indeed, there is no doubt that this criterion is perfectly suited to the legal principles concerning habitual care and its indications. However, the question of whether these indications

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of habitual care are present and concur in the Chapter of Salut iarum is a matter pertaining to the merits of the case, and is not a concern of the Supreme Tribunal.

IV. Regarding the other part of the controversy, which concerns the four rights that the Chapter claims in relation to actual care, the reasoning of the complaint, which denies the possibility of acquisitive prescription in this case, is also not supported. Indeed, the principles on which the judges of the second and third turns based their reasoning can be reduced to the following: 1. Parochial rights can be subject to prescription; for the force of prescription does not exclude either the nature of the thing or a special legal prohibition. Indeed, prescription is prohibited against the boundaries of parishes, as well as against the boundaries of dioceses and provinces; but nowhere is it prohibited that parochial rights be subject to prescription. Thus, the opinion of the second turn, which subsequently extensively proves the established principle both from doctrine and from jurisprudence, is more or less as stated above. The same opinion is presented by the third turn, while also noting that certain decisions of the Sacred Roman Congregations cannot be opposed; because in those same cases presented to the Congregations, either the matter concerned the prescription of extinguished rights, which would be disruptive to ecclesiastical discipline, or it did not concern possession for more than a hundred years. Indeed, there is nothing legally reprehensible in these propositions, and the judges certainly did not fail in their duty to properly justify their statements. One thing, however, could have been expressed more clearly, although it is not of great importance in the case. The judges of the second turn, after saying: "(The parochial rights) are not excluded by the force... of prescription, neither by a special legal prohibition," added: "are not excluded by the nature of the thing, since even the episcopal rights of jurisdiction, which are more sacred, and which immediately pertain to the divine constitution of the Church, can be subject to prescription, according to all doctors." However, this is too general. It is known that the episcopal rights, which are determined by canon law, are...

[*Latin ed. p. 294*]

294. Acta Apostolicae Sedis – The official commentary on divine law, as, for example, the law of visitation cannot, as the doctors say, be completely extinguished, but only extinguished *in transitu*. In other words, it cannot be the case that a certain territory is freed from the visitation of any Prelate by prescription, but it is possible that in a certain territory, the first Prelate loses the right of visitation through non-use, while another, more diligent Prelate, retains that right. If, however, we are speaking of episcopal rights introduced by ecclesiastical law and not founded on divine law, then prescription, even truly extictive, is not inherently prohibited. This was not sufficiently considered in the opinion of the 2nd turn. The judges of the

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3rd turn, however, seem to have indicated a distinction if the context is properly examined, but they themselves did not clearly state the matter. Nevertheless, as noted, this does not present any detriment to the cause.

2. Another principle, invoked by the opinions challenged, is this: that, in order for prescription to be valid in this matter, it is necessary that there be a title favorable to the Chapter, a title required for prescription. Furthermore, the judges of the 2nd turn described what is required to prove an immemorial custom, and how witnesses must testify, whether by sight or by hearing, and when written documents and other proofs are also admitted, which is a perfectly accurate explanation. In these matters as well, nothing offends the law. Furthermore, the judges rightly demonstrated that the canons were legitimately admitted as witnesses, referring to the doctrine as transmitted by Cardinal De Luca in part 1 on trials, section XXXII, n. 46, and furthermore noting that it was not only the canons who were questioned, and that their testimony, added to other depositions, had at least a supportive force. Indeed, the most diligent demonstration of an immemorial custom, which occurs in the opinion of the 2nd turn concerning Lodi, is to be commended to the judges, who certainly were not obliged to proceed so diligently, since, as they themselves noted, there was no doubt about the material and sensible fact of that repeated observance, as the Archpriest himself stated: "the fact of the possession was confessed by both parties." The greatest difficulty, however, was presented by the Archpriest concerning the nature of that possession, because he said that the Chapter had carried out all the acts in the name and by the delegation of the Archpriest. Furthermore, the same Archpriest insisted repeatedly on the affirmation that all the rights which the Chapter claims for itself, whether those about which we are now speaking, or even the habitual care itself, originated from a convention of the year 1493 between the Chapter and the first Archpriest, Bartholomew Vacca, accepted by his successor and brother, Anthony Vacca. Indeed, he added, that convention was invalid because of the lack of papal approval. Therefore, it must be said that prescription...

[*Latin ed. p. 295*]

Apostolic Mandate 295 does not permit the founding of a title that is either vicious or, at the very least, equivocal. This question, as is evident, pertains entirely to a matter of fact, which has been examined in previous judgments, and need not be revisited at this time. However, with regard to the law, it must be noted that the judges correctly observed that it is not sufficient to simply assert the origin of the Chapter's possession; rather, it is necessary to prove that, from that specific agreement, certain parochial rights were derived by the Chapter, and that the burden of proof for this lies with the Archpriest. Furthermore, both judgments also stated: "It is not necessary for the Chapter to demonstrate the true origin, or title, of its prescription; for this prescription, by its very nature of being unmemorable,

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constitutes a title in itself, and a most valid title... indeed, a better title than any in the world." Finally, regarding the question raised by the Archpriest, concerning the name by which the Chapter has and will refer to these acts, whether it is by delegation received from the Archpriest, the judges also engaged in a lengthy discussion. Indeed, this diligence is noteworthy, as the judges of the second instance, among other things, correctly stated: "Finally, when the canons have clearly proven that they have exercised the aforementioned four rights for four centuries, a long and unmemorable possession excludes the facultative nature of possession, as noted in *Rota in Colonien*, before the Reverend Father V., December 85, number 8. - The presumption of facultative possession is excluded by a multiplicity of acts and by continued possession over a long period of time." However, the appellant strongly contradicts all of this. While admitting the principle that the judges of the second instance cited from Fagnano: "It is a rule that whatever can be obtained by privilege can be acquired by custom, even one that is more than a hundred years old," the appellant raises an exception. The exception, according to the appellant, is this: unless there is a lack of capacity in the one exercising or possessing the right. For, if there is a lack of capacity, for example, in a layman to hear criminal cases of clerics, or to absolve from excommunication, that right can be acquired by privilege, but certainly not by unmemorable prescription. In other words, if the law renders a person incapable of exercising a certain right, unmemorable possession is not sufficient, and the matter becomes, as it were, imprescriptible. Indeed, the appellant argues that the Chapter, in general, was rendered incapable by the Council of Trent, session 7, decree 7, of exercising any actual care. Therefore, it concludes, in this case, unmemorable possession is of no value, and therefore, those rights cannot belong to the Chapter. However, the Eminent Fathers pointed out that this does not apply to the matter at hand. For, laymen are incapable under common law of exercising ecclesiastical jurisdiction, and can only be habilitated to do so by an apostolic privilege.

[*Latin ed. p. 296*]

296 The *Acta Apostolicae Sedis* is the most renowned official commentary. However, the chapter, to which the Tridentine law forbade the exercise of actual jurisdiction, has not yet been demonstrated by anyone to be, by the same law, incapable of such exercise, as is also observed by the Holy Rota. Only with some semblance of truth can the appealing party, in this matter, oppose, namely, that the custom is unreasonable and, as it were, a corruption of the law. But the Most Reverend Fathers considered that a distinction was necessary in this matter, which the appealing party had, in a way, anticipated. Indeed, it could easily happen that if a chapter, against one exercising actual jurisdiction, claimed, by force of custom, the right to exercise such actual jurisdiction, and this exercise, either in itself

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or in the manner in which it is carried out, would frustrate the intention of the Council of Trent, session 7, canon 7 concerning appeals, then such a custom could be deemed unreasonable by the Church. But if neither the substance nor the manner of the chapter's participation in the exercise of actual jurisdiction causes detriment, and, indeed, if, rather, with due regard for the circumstances, assistance is thus provided to the good of souls by the Vicar, then such a custom can be legitimate. Furthermore, in fact, as the appealing party acknowledges, there are now several cases in which chapters cooperate to some extent in the exercise of actual jurisdiction, in which no serious inconvenience is found. Certainly, it is the duty of the Bishop to judge these matters and to provide, in appropriate ways, for any evils that may occur, or, if necessary, to refer the matter to the Holy See. If the Bishop tacitly or expressly consents to the use of these rights, his action confirms that the custom in question is not unreasonable. How the custom of the Church of Salutiarum regarding the actions of Bishops is to be interpreted is a matter pertaining to the merits of the case, about which the Holy Rota has sufficiently implied its opinion. From these points, it is also concluded that, in this case, the reasons for the complaint cannot be admitted.

Regarding b) the perversion of facts, which the appealing party reproaches the Holy Rota for, the Most Reverend Fathers considered that something should be kept in mind beforehand. Indeed, questions pertaining to the facts are only admitted for appeal to this Supreme Tribunal when they involve a blatant perversion of facts. Certainly, the term "perversion" of this kind does not apply to any error that lower judges may have made in understanding, interpreting, or estimating facts, but it signifies only that corruption of facts which has completely led the judge's mind away from the truth to be recognized in rendering the judgment. This corruption, when dealing with judgments rendered by the Holy Rota, is not easily conceivable, but must be clearly demonstrated in each case.

[*Latin ed. p. 297*]

Apostolic Signatura 297. Concerning the present controversy, the perversion of facts is made clearer by how implausible it appears, especially considering the notable diligence with which, as the reader will immediately see, the judges examined the case in three instances. Specifically, the Emi Fathers considered the following: The appellant argues that the perversion of facts lies in the fact that the royal judges believed that the assignment of all the goods of the parish to the endowment of the collegiate church had been made by the Bull of erection, and that they falsely concluded this from a confusion made between the declaration of goods truly exhibited for the benefit of the elected officials of the Marquis, etc., in obedience to Rule XXII of the Apostolic Chancery, on the one hand, and, as the appellant

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says, the narrative of the Bull, and a similar declaration, which the judges believed had been made to the Cardinal Legate. From this, the appellant argues, it happened that, using false premises, the judges erred; and this error had such an influence on the outcome of the case that the judges of the second instance pronounced: "This assignment of all the fruits of the parish church to the collegiate church is a constant, perpetual, and undeniable sign of the habitual care remaining in the Chapter..." But there is no perversion of facts in these matters; rather, this exposition by the appellant's side undermines the reasoning of the judges, who proceeded quite differently, and, conversely, the beginning of the discourse was taken from what appeared to the appellant's side to be the end of the argument. Indeed, adhering to these criteria, the judges pronounced: 1. According to the common teaching of canonists, the assignment of all the goods and rights of a parish church to a collegiate church is a constant, perpetual, and undeniable sign of the habitual care remaining in the collegiate church. 2. It is held that when a church is erected into a collegiate church, all of its goods are transferred to the collegiate church, unless an explicit exception is made; otherwise, it would not be a church simply erected into a collegiate church, but a parsonage. 3. Although the author of a Bull does not expressly say that he is uniting and applying all the goods to the collegiate church, it is nevertheless considered to be implicitly determined if he has declared the value of the goods in such a way that no other explanation can be given to that declaration. 4. This is especially true when the author of a Bull has stipulated that the fruits of all the goods, with some exceptions, should be distributed in equal portions among the canons. 5. And if any doubt remains, it must be completely set aside, whenever a collegiate church, erected in times past, has for many centuries held the Chapter in possession of all the goods of the ancient parish church, and has administered them as belonging to the chapter's mass.

[*Latin ed. p. 298*]

Acta Apostolicae Sedis - Official Commentary 298. Indeed, there can be no doubt that the principles or criteria in question are correct. However, in the case under consideration, the factual matter is at issue, and a definitive assessment of the facts is left to the judges. Nor is it valid to reproach the judges for disregarding Rule XXII of the Apostolic Chancery, when they, having examined all the principles laid down, independently of the aforementioned rule, have formed their conviction based on other evidence. If, however, any doubt should still seem to remain, as has been noted, it must be entirely rejected, after the Holy Rota, with an irreproachable judgment on the facts, has applied the criterion placed in 5th place. To the IL, the appellant party complains that the Rota judges, contrary to its protests, did not consider the original Bull of Sixtus IV, but only the letters of the Cardinal Legate. However, this complaint is unfounded. For, in the first

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place, it is the duty of the judges to consider the documents presented to them regarding the disputed facts. Secondly, since it is clear from the documents presented by the Chapter that the Bull of Sixtus IV had been revoked, and the appellant party does not deny this, it must be held to have tacitly consented to this, and therefore cannot invoke any reason for complaint. To the III. It cannot be denied that, with regard to the length of time during which the Chapter exercised the right to nominate the Archpriest, an error occurred in the judgments impugned. The judges of the second turn believed that the Chapter had elected or presented the Archpriest, who was to be instituted by the Ordinary, without interruption from the time of the establishment of the collegiate church for two centuries and a half; which was also maintained by the judges of the third turn. However, the Chapter itself does not assert this, but only contends that the right of nomination was granted to it by the Bull of erection; in fact, the Chapter admits that it exercised this right only a few times in the past, and that subsequently it did not use it so often. Therefore, it must be considered that the Holy Rota was mistaken in the facts concerning which we are now speaking. However, this error must be regarded as accidental in this case. For, in order to demonstrate a habitual care on the part of the Chapter, it is sufficient that the right of presentation of the Archpriest was assigned to the Chapter in the Bull of erection of the collegiate church, even if that right was exercised only once or rarely. But that the Chapter, as is supposed, legitimately relinquished that right afterwards, could not change the status of the Church, transferring the habitual care from the collegiate church to the Archpriest. This last observation was rightly made by the judgment of the second turn in order to respond to the difficulty arising from the form of competition adopted since 1744 and thereafter, for the election of the Archpriest, but the same...

[*Latin ed. p. 299*]

Signatura Apostolica 299 may be appropriately extended to the period preceding the year 1744, during which the Chapter presented no one for the Archpresbyterate; from which it is evident that this error did not exert any influence on the outcome of the case. Furthermore, while the collation made to the Chapter in the Bull of erection established the presentation of the Archpresbyter, even considering the aforementioned adverse circumstances, it constitutes a positive argument for the habitual care of the Chapter; the lack of this same right, if indeed the form of competition introduced in the year 1744 for the election of the Archpresbyter had, from the beginning, been established by statute, could in no way serve to exclude the habitual care of the Chapter, as has been excellently demonstrated, considering now the question of law, by the unanimous opinion of the second panel. Since this is so, those arguments which insist on the form of competition regarding offices under care, both before and after Benedict

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XIV, are likewise irrelevant to the matter at hand. IV. Furthermore, the dissenting party asserts that the judges demonstrated the habitual care of the Chapter also from the reports of the Bishops to the Holy See; but of these, they considered only those pertaining to the last twenty years, while all preceding ones were neglected by the judges. But it is quite clear that the dissenting party not only attacks the sentences impugned from the reports to the Holy See, but also from the acts of the Visitations of the years 1701, 1730, etc., and in general, as the sentence before Many states, from many other documents. V. Finally, the dissenting party unjustly claims to suffer a grievance from the argument that the judges inferred the habitual care of the Chapter from the perception of tithes and mortuary emoluments. The entire argument of the actor revolves around the fact, because, as he himself contends, the judges erred by perverting or inverting the titles, by which the Chapter was said to receive tithes and other emoluments, while the Archpresbyter received the fourth mortuary. However, this cannot be considered a perversion of the facts in the sense that it can be raised before the Supreme Tribunal, unless one were to call any judgment rendered by the judges against the pleadings of either litigant a perversion of the facts. On the contrary, this is merely an estimation of the facts, which is left to the prudent judgment of the judges for the merits of the case. Indeed, the judges of the second panel carefully examined the elements of the facts in this matter; and the sentence of the third panel cannot in any way be accused of negligence, since it expressly stated that in this part it merely alluded to matters "which have been repeatedly, learnedly, and convincingly explained in the appealed sentence."

[*Latin ed. p. 300*]

Acts of the Apostolic See - Official Commentary 300. Therefore, the reasons for the complaint regarding the nullity or rescission of the total sentence are not upheld, and thus the Eminent Fathers considered it appropriate to respond to the first question with: Negative.

II - Is there a place for restitution in full in this case? The Eminent Fathers stated that it was scarcely necessary to consider this second question, as no cause has been verified from those things which, according to the Rules of this Supreme Tribunal, article 9, in conjunction with Appendix article 1, are required in order for an extraordinary remedy of restitution in full to be granted. Indeed, nothing is presented from which a falsity or adulteration of documents can be detected, nor has any public or private document been found by which any new fact in the case can be proven. Furthermore, no reason whatsoever has intervened which was not previously presented or disputed, from which a grave and manifest detriment to the good of justice can be demonstrated.

QUESTION: Why did the Eminent Fathers also order a response to this second doubt? They answered: Negative. Therefore, regarding the

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proposed doubts, namely: 1. Is there any total sentence, or is there a place for its rescission in this case? And, as a negative response: 2. Is there a place for restitution in full in this case? The Eminent and Reverend Fathers responded on May 13, 1916: Negative to both.

Regarding the judicial expenses, the Supreme Tribunal decreed that they should be compensated between the parties, except for the expenses of the final sentence, which are to be borne entirely by the Archpriest. And thus it was promulgated, pronounced, decreed, declared, and definitively judged, and it was ordered that this final sentence be made public and that it be enforced against all to whom it pertains, not only, but also against all.

Given in Rome, on June 28, 1916.

Joseph Pauca, Signatures.

Scialdoni, Notary.

L. ″S.

Nicholas Marini, from the Secretariat.

Aloysius.

[*Latin ed. p. 301*]

Diary of the Roman Curia 301. DIARY OF THE ROMAN CURIA. SECRETARY OF STATE. By means of letters from the Secretary of State, the Holy Father has deigned to appoint: July 8, 1916. — Monsignor Achille Locatelli, titular Archbishop of Salonichi, Apostolic Nuncio to the Most Blessed Court of Belgium. July 10. — His Eminence, Cardinal Filippo Giustini, Protector of the Order of Discalced Carmelites. July 18. — His Eminence, Cardinal Giulio Tonti, Protector of the Venerable Company of the Stigmata of Saint Francis in Florence. July 21. — The same Most Eminent Cardinal, Protector of the Archconfraternity of Saint Anthony of Padua at the Gymnasia in Boma. — His Eminences, Cardinals Filippo Giustini and Aidan Gasquet, Members of the Sacred Congregation for the Propagation of the Faith, for matters pertaining to the Latin rite and for matters pertaining to the Oriental rite. By Apostolic Briefs, the Holy Father has deigned to appoint: Assistants to the Papal Throne: June 7, 1916. — Monsignor Ludovico Rajner, titular Bishop of Cidiesso, auxiliary and general vicar of the Most Reverend Archbishop of Strigonia. July 22. — Monsignor Giuseppe Lopez Mendoza y Garcia, Bishop of Pamplona and Tudela. Apostolic Protonotaries *ad instar participantium*: May 19, 1916. — Monsignor Edoardo Giovanni McLaughlin, of the diocese of Davenport. May 28. — Monsignor Enrico Flavigny, of the archdiocese of Rouen. July 6. — Monsignor Giacomo Mancuso, of the diocese of Mileto.

[*Latin ed. p. 302*]

302 Acta Apostolicae Sedis - Official Commentary of the Domestic Prelate of His Holiness: April 27, 1916. — Monsignor Vittore Bilski, of

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the archdiocese of Leopoli of the Royal Kingdom. May 15. — Monsignor Giuseppe Mizsicsko, of the diocese of Eperjes of the Greek-Ruthenian rite. May 19. — Monsignor Tommaso Véale Tobia, of the diocese of Little-Rock. — Monsignor Antonio Hensen, president of the Dutch Historical Institute in Rome. May 25. — Monsignor Giacomo Collins, of the archdiocese of Sidney. May 27. — Monsignor Pietro Kempkes, of the diocese of Munster. June 21. — Monsignor Maurizio Carton de Wiart, of the archdiocese of Westminster. — Monsignor Antonio Brugidou, of the diocese of Carcassonne, residing in Rome. — Monsignor Antonio Dobronic, of the diocese of Lesina. July 3. — Monsignor Giovanni Vizzini, of the diocese of Muro Lucano. July 4. — Monsignor Sanzio Sanzi, of the archdiocese of Spoleto, residing in Rome. July 17. — Monsignor Antonio Sacco, of the diocese of Teggiano, residing in Rome. July 18. — Monsignor Patrizio Guglielmo Talion, of the archdiocese of St. Louis. — Monsignor Giovanni Giuseppe Tannrath, of the same archdiocese.

HONORS: With Apostolic Briefs, the Holy Father deigned to bestow the following honors:

The Order of St. Pius, Commander: June 27, 1916. — To Mr. Girolamo, of the House of Sacripante, exempt from the Noble Guards of His Holiness.

The Order of St. Gregory the Great, Grand Cross, civil class: May 26, 1916. — To Mr. Ferdinando Tovia, head of the Colonies section in the Ministry of Foreign Affairs in Spain.

The Order of St. Gregory the Great, Commander with plaque, civil class: March 22, 1916. — To the following gentlemen, who are part of the government of the Ethiopian Empire: Mr. Bittoded Haïle-Guiorguis, Chancellor of the Empire; Mr. Kantiba-Wold-Tsadek, Minister of Agriculture and Industry; Mr. Badjironde Iggnezou, Minister of Finance.

[*Latin ed. p. 303*]

Diarium Romanae Curiae 303. Sig. Dediazmateh Mechaeha Wòrkie, counselor of state; Sig. Ato Tessamma Echétie, minister of posts and telegraphs. May 17th. – To Mr. Giovanni Murphy, of the archdiocese of Chicago. The Order of St. Gregory the Great, civil class: April 13, 1916. – To Mr. Francesco Felm ayer, of the archdiocese of Vienne. May 19th. – To Mr. Giuseppe Rodríguez Alves, chargé d'affaires of the Brazilian government in Sweden. June 15th. – To Mr. Fiorenzo Iemina, of the diocese of Mondovì. – To Mr. Carlo Dalton, of the diocese of Charlottetown. June 17th. – To Mr. Count Carlo Zucchini, president general of the Italian Catholic economic-social union. – To Mr. Giuseppe Giglio Tramonte, of the archdiocese of Palermo. July 13th. – To Mr. Lorenzo Barbosa Pereira de Cunha, of the archdiocese of Rio de Janeiro. The Order of St. Gregory the Great, military class: July 24, 1916. – To Mr. Count Francesco Bezzi Scali, ensign of the Noble Guard of His Holiness. The Order of St. Gregory the Great, civil class: May 3, 1916. – To Mr. Leopoldo Rauscher, of the archdiocese of

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Vienne. May 26th. – To Mr. Tommaso M. D. Cardeza, private secretary to the ambassador of the United States of America to Vienne. June 3rd. – To Mr. Paolo L. Mimbela, of the archdiocese of Lima. June 21st. – To Mr. Architect Cecilio Arpesani, of the archdiocese of Pisa. June 27th. – To Mr. Maria Adriano Völker, of the diocese of Bois-le-Duc. July 1st. – To Mr. Michele Zehentbauer, of the archdiocese of Munich of Bavaria. July 3rd. – To Mr. Carlo Duchesne, formerly French consul in Varna. July 5th. – To Mr. Giacomo Enrico Martino Ellis, of the apostolic vicariate of Curaçao. July 6th. – To Mr. Giuseppe Berselli, of the archdiocese of Bologna. – To Mr. Paolo Berselli, of the same archdiocese. The Order of St. Sylvester Pope: March 22, 1916. – To Mr. Ato Teoga, ministerial officer in the Ethiopian Empire. – To Mr. Ato Wold-Mariam, chief of the indigenous Catholics of Choa. May 28th. – To Mr. Knight Enrico Wuillemont, captain of the honorary palace guard.

[*Latin ed. p. 304*]

304 Acta Apostolicae Sedis - Official Commentary, June 20, 1916. – To the Most Noble Signor Cavaliere Professor Guido Galli, Deputy Director of the Papal Museums and Galleries. June 27. – To the Most Noble Signor Cavaliere Francesco Bianchi, Papal Engraver. July 20. – To the Most Noble Signor Cavaliere Giuseppe Ambrogetti, of Rome. – To the Most Noble Signor Cavaliere Advocate Francesco Pacelli, of Rome. – To the Most Noble Signor Cavaliere Lorenzo M. De Rossi, of Rome. Knighthood of the Order of St. Sylvester the Pope: * March 22, 1916. – To the Most Noble Signor Count d'Apchier le Mangin, residing in the Ethiopian Empire. July 20. – To the Most Noble Signor Alfredo Giovanni Mason, General President in London and Paris of the company "The Aeolian Co." – To the Most Noble Signor Giovanni Gabriele Brower, Director in Paris of the same company. HIS HOLINESS'S HOUSEHOLD APPOINTMENTS By means of letters from His Eminence, the Reverend Monsignor, the Holy Father deigned to appoint: Honorary Knights of the Sword and Mantle, extraordinary to His Holiness: June 3, 1916. – Signor Giuseppe Carignani, of the Dukes of Novoli, of the archdiocese of Naples. July 11. – Signor Count Ambrogio Caracciolo di Melissano, of the same archdiocese. Honorary Knights in purple attire of His Holiness: June 30, 1916. – Monsignor Giuseppe Cingolani, of the diocese of Recanati. July 11. – Monsignor Giovanni Battista Haindl, of the archdiocese of Munich (Bavaria). NECROLOGY July 17, 1916. – Monsignor Giovanni Battista Krapac, Bishop of Sirmio.

[*Latin ed. p. 305*]

Year of Our Lord 1916. September 1st. No. 9. OFFICIAL COMMENTARY OF THE ACTS OF THE APOSTOLIC SEE. ACTS OF POPE BENEDICT XV. LETTERS CONCERNING NEW LAWS REGARDING THE APOSTOLIC BIBLICAL INSTITUTE, DECREES REGARDING WHAT SHOULD BE

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DONE CONCERNING SAID INSTITUTE, AND CONCERNING THE VULGATE, WITH REGARD TO THE PROMOTION OF THE BIBLICAL CAUSE BY THE SUPREME PONTIFF. BENEDICT XV. For the perpetual memory of the matter. – Since the Sacred Scriptures were being treated, in recent times, by rationalists, who deny any divine revelation or inspiration, as if they originated solely from human intellect, and their commentaries, replete with all the trappings of erudition, were spreading more and more each day, to the grave offense of the unlearned, moved by the consciousness of his apostolic office, Our Predecessor, Leo XIII, in order to counteract this so great and pernicious audacity, established certain principles and illustrated them in his Encyclical Letter *Providentissimus Deus*, dated the 18th day of November in the year 1893, to which all should adhere who devoted themselves to the study and interpretation of the divine Scriptures. However, with these inconveniences increasing daily, the same Pontiff, lest he seem to have neglected any means of foresight, in his Apostolic Letter *Vigilantiae studiique memores*, dated the 30th day of October in the year 1902, established a Council or Commission, as it is called, for the advancement of the study of the Sacred Scriptures, to which the entire care of the biblical cause would be properly and particularly entrusted. It is certainly a most excellent undertaking, and, as one might expect, it has yielded most joyous results, since Cardinals and other most learned men, chosen for this Council, have, during this time, accomplished much.

[*Latin ed. p. 306*]

306 Acta Apostolicae Sedis - Official Commentary. Furthermore, having published more, after mature deliberation and with the approval of the Roman Pontiff, responses were issued, in which many questions, previously debated on opposing sides, were appropriately resolved, and laws were wisely and usefully established to guide the biblical studies of Catholic doctors. Indeed, the active works of the Pontifical Council did not remain within these boundaries. In the year 1907, under the authority and auspices of our blessed and revered predecessor, Pope Pius X, it was decreed that the translation of the Scriptures into Latin, made by St. Jerome, which is known as the Vulgate, should be restored to its original reading, after careful examination of ancient codices. This task, certainly laborious and arduous, was undertaken by Benedictine monks, who, without neglecting any knowledge related to paleography and other disciplines, and having removed all obstacles that would necessarily hinder such a serious undertaking, pursued the project with admirable skill and constancy, to the great approval of even those who are not Catholic. Not long after, when it seemed expedient to the same Pontiff to open a quicker path for clerics to defend the Holy Scriptures, at the urging of the same Pontifical Council, by Apostolic Letters, *Vinea electa*, dated May 7th, 1909, the Biblical Institute was founded in this venerable City, and it was not only equipped with

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the most modern buildings and a unique library, but also enriched with all the instruments of biblical scholarship that would contribute most to a fuller understanding and a more effective defense of the Holy Books. Members of the Society of Jesus, who had rendered outstanding service to the sacred disciplines and to the education of clerics, were entrusted with the task of directing and teaching at the Institute; and they fulfilled the expectations of the Pope and of all good men so well that, after a short time, they sent forth many highly skilled scholars to the field of Church studies. Considering all these things carefully, it occurs to Us that we should consider how we might complete and perfect such important institutions, so that the benefits previously conferred upon the Church of God might be increased by a rich addition of further advantages: and if we were to do so, we would certainly be acting in accordance with the intentions of our immediate predecessor, since it is known that the Pope established a law to the effect that, as circumstances, the course of events, and experience required, so too should corrections and improvements be made. Therefore, We have decided to establish certain provisions by which, first of all, we may increase, as much as possible, the efficiency and effectiveness of the aforementioned Biblical Institute, and secondly, we may regulate the mutual relationships and connections that exist between the Institute and the Pontifical Council responsible for the restoration of the Vulgate, and with Our Supreme Council concerning all matters related to the Bible.

[*Latin ed. p. 307*]

307 Decrees of Saint Benedict, Pope XV. Therefore, with all those things previously established in any way remaining valid, and these Letters of Ours not differing in any respect from them, We, by Our Apostolic Authority, enact and decree the following:

I. No one shall be admitted to the study of Holy Scripture in the Biblical Institute, unless they have completed the ordinary course of studies in philosophy and theology.

II. The curriculum of biblical studies shall be completed in three years at the Institute, observing the order of disciplines, which, having been approved by Our Council for the Promotion of Biblical Studies, has been in force up to this day; and at the end of each year, let there be an examination of doctrine, as is customary.

III. With those things entirely abolished which are contained in both the Apostolic Letters *Iucunda sane die* of the twenty-second day of the month of March in the year 1911, and *Ad Pontificium Institutum Biblicum* of the first day of the month of June in the year 1912, and also in other Letters which do not correspond to this Our intention, We grant to the Biblical Institute that, to those students who have been approved after examination, after the first year, letters of testimonial of legitimate admission shall be given; and after the second year, the academic degree of Bachelor shall be

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conferred.

IV. Derogating from the Apostolic Letters concerning the Holy Scripture, given on the twentieth day of the month of February in the year 1904, We grant to the Biblical Institute that, to those students who have completed the entire curriculum of studies there, and whose doctrine has been tested and approved, the academic degree in Holy Scripture, under the name of the Pontifical Biblical Council, shall be conferred.

V. The letters of testimonial and the diplomas of academic degrees, of which mention is made in numbers III and IV, shall be issued in accordance with the judgment previously approved by the Pontifical Biblical Council.

VI. In the judgments by which candidates for the doctorate will be examined in the Biblical Institute, one of the consultants of the Pontifical Biblical Council, whom the Cardinals have designated from that Council, shall continuously be present and give his vote, as do the others.

VII. No academic degree in Holy Scripture shall be conferred upon anyone, unless it is legitimately established that they possess the degree of Sacred Theology in some university approved by the Apostolic See. If anyone has obtained that degree or a similar title elsewhere, the matter shall be referred to the Pontifical Biblical Council for judgment.

VIII. The right to grant the degree in Holy Scripture belongs solely to Our Supreme Council for the Promotion of Biblical Studies, which shall also continue to admit to the examination those candidates who have devoted themselves to the studies of Holy Scripture outside the Biblical Institute.

IX. No one shall be allowed to risk their doctrine, in order to obtain the degree in Holy Scripture, unless they have declared their intention to pursue the doctorate at least two years before the examination.

[*Latin ed. p. 308*]

Acts of the Apostolic See - Official Commentary 308, and whether it has taught a biblical matter or presented some elucidation thereof, the X. Ordinary Professors of Holy Scripture in the Biblical Institute, to be appointed by the General Prefect of the Society of Jesus, as heretofore, shall be chosen; provided that the approval of the Pontifical Council is added. XI. Both the Pontifical Council for the Revision of the Vulgate and the Pontifical Biblical Institute shall, annually, submit to Us, for the advancement of biblical studies, a written and complete report on their activities and condition, and on all matters of greater importance. All and each of the things which We have deemed proper to establish and decide in this matter, as they are established and decreed, We wish and order to remain valid and firm: notwithstanding any contrary things. Given at Rome, near Saint Peter, under the Fisherman's ring, on the fifteenth day of the month of August, in the year 1916, in the second year of Our pontificate. P. CARD. GASPARRI, Secretary of State. L. © S.' LETTER I TO R. P. D. JULIAN, ARCHBISHOP OF

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PORT-AU-PRINCE, AND OTHER BISHOPS OF THE ECCLESIASTICAL PROVINCE OF HAITI, GATHERED IN CONVENE: Venerable Brothers, greetings and apostolic blessing.

We have seen in your most loving letter, which you recently sent to Us when assembled, a certain expression of the piety that exists towards Us, who are bound to you by the sweetest ties of affection. We acknowledge that you strive to uphold and strengthen, by every means, the bonds of this relationship; that you remember with gratitude the benefits We have conferred upon you and your people; that you celebrate the things that We have accomplished through apostolic providence to promote peace and alleviate the calamities of war; and We know the place We hold among you, and with how much expectation, along with the sad events unfolding in Europe, you follow Our plans and endeavors of charity, and how freely you hold Us in your hearts.

Concerning the Venerable Father Francis, titular Archbishop of Nicosia, a man most esteemed by Us, whom We recently sent as a legate to you, and concerning the Venerable Father Ignatius, Bishop of Les Cayes, whom you have chosen from your clergy, as a companion in...

[*Latin ed. p. 309*]

309 The acts of Pope Benedict XV, by which we have aided you, loved you, and in a truly desirable matter, have supported your authority. For one is praised by you, the other enjoys your benevolence and esteem; and this, indeed, is of such great importance to us, that prudent men can confirm that it is sufficient in them to provide those benefits which we hope to obtain through their virtue. These are the offices of our piety towards you; and may these letters and the apostolic blessing, which, under the auspices of heavenly gifts, we impart to you all, venerable brothers, to the clergy and to the people among you, be a most sincere expression of our affection in the Lord. Given in Rome, at St. Peter's, on the fourth day of July, in the year 1916, in the second year of our pontificate. BENEDICT XV. To His Excellency, the Most Reverend Cardinal Boschi, Archbishop of Ferrara, Bishop of Comacchio (-Pomposa), to His Excellency, the Most Reverend Cardinal Gusmini, Archbishop of Bologna, and to the Archbishops and Bishops of the Region of Flaminia, assembled in their annual meeting. Beloved sons and venerable brothers, greetings and the apostolic blessing. — We have received the letter which you sent to us after the recent meeting in Bologna; and, as we read it, it is difficult to express how much it has increased our judgment of you, and also our benevolence. For we see that you desire nothing more than to remain as closely united with us as you have always been; that you are eager to ensure that your churches flourish as an example; that you desire nothing, and strive for nothing, except what is joined with extraordinary benefit. In this matter, we not only approve, but we are greatly pleased that you are now striving so earnestly to ensure

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that many from among your congregations join those Catholic societies which we have endeavored to establish, which are more suited to new endeavors. What times these are, what they demand, what future events will bring, what hope they offer, and what fear they inspire, you know. It must be taken care that these prepared and established Catholic societies do not offend those who are unprepared; but it must not be forgotten that true soldiers of Christ are only those who adorn and present Christ through the cultivation of Christian virtues. Hoping for divine gifts, and especially for that most desired peace, which we do not cease to implore from God for you daily,

[*Latin ed. p. 310*]

310 Acta Apostolicae Sedis - Commentarium Officiale: The Apostolic Blessing, which We impart to you all, Our beloved Sons and venerable Brothers, and to the clergy and people of each of you, in the Lord. Given in Rome, at St. Peter's, on the fifth day of July, 1916, in the second year of Our Pontificate. BENEDICT XV.

To the Most Reverend Massimiliano Zara, President General of the Society of St. Paul for the Dissemination of the Catholic Press.

Beloved Son, health and Apostolic Blessing.

The devoted address which you sent to Us, together with the general report of the books distributed by the Society of St. Paul from 1875 to 1915, at the same time that it brings Our thoughts to a work to which We have already given Our name and Our support, with the detailed enumeration of the publications disseminated by it, almost brings before Our eyes the intense and generously beneficial life of that work. These are pontifical documents and pamphlets of Catholic polemic; books of piety and of agreeable reading; historical illustrations and publications of sound culture and Christian education. Indeed, nothing has been neglected that can benefit in forming in the readers the Christian spirit, in defending it from the daily assaults of incredulity and vice, and in offering them a welcome and salutary sustenance.

We can therefore rejoice heartily with you, beloved Son, and with all those who cooperate with you in this new form of apostolate, and we conceive the best hopes for the future, especially now that the Catholic press is also promoted by the National Work of the Good Press. Which, although, unlike the Society of St. Paul, it is primarily concerned with periodical publications, nevertheless has the same purpose, and both can rightly be considered two brothers, who, in a somewhat different field, are both fighting the same battle.

A truly holy battle, to which the times to come, maturing through such mournful events, require the prompt and generous cooperation of every good Catholic. May the heavenly rewards and the testimony of Our pa-

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ternal benevolence be with you in the meantime, and may the Apostolic Blessing, which We impart with all Our heart, be with you, beloved Son, and with the Society which you so zealously lead.

[*Latin ed. p. 311*]

The Acts of Pope Benedict XV, page 311, mention that certain individuals are assisted with resources, counsel, and contributions from their charity. From the Vatican, on July 22nd of the year 1916, in the fourth year of Our Pontificate. BENEDICT XV, TO THE REVEREND FATHER BERNARD, ARCHBISHOP OF BOGOTA, AND TO OTHER ARCHBISHOPS AND BISHOPS GATHERED IN COUNCIL. Venerable Brothers, greetings and the apostolic blessing.

We have learned that you are about to convene for a meeting to discuss the common affairs of your Churches; and although your prudence scarcely requires any exhortation from Us, We do not believe that We have fulfilled Our duty of charity and foresight unless We suggest certain things which We trust will be of no small benefit to you and to your dioceses. These things are not new; but since We are speaking of matters closely connected with the progress of the Catholic cause, We have considered it necessary to reiterate them to you.

First, We address a matter which We believe requires your utmost attention: the establishment of provincial seminaries. You know well, Venerable Brothers, how fruitfully many dioceses elsewhere have benefited from them. Why, therefore, should not the same be attempted in the Colombian Church, with no less hope? The times in which We live are such, as you see, that many men of the clergy are not content to devote themselves solely to the performance of sacred duties, but seek to teach, to heal, to practice medicine, and to pursue all the ways of harming others, which the enemies of the Catholic name devise daily. But such priests will not be readily available to you, unless greater provisions are made among you for the formation of clerics, in suitable residences where a more abundant and refined instruction from masters may inspire hope in the students, so that they may be better prepared to engage in the Lord's battles, and to properly serve others. Therefore, We urge you to devote your thoughts and efforts, as in other matters, to this matter as well, for there is nothing more conducive to a fruitful episcopal ministry than diligent attention to it.

Furthermore, it will not be amiss to commend to you the importance of social works, which, when carried out in a Christian manner, are of great benefit. We know that the need for such works is pressing, even among you. For the enemies, if they have not yet descended into open warfare, are still training their forces, preparing to attack more boldly the more unprepared Catholics. Therefore, We also desire that you be active in this field, which

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is certainly open to great possibilities.

[*Latin ed. p. 312*]

312 Acta Apostolicae Sedis - Commentarium Officiale. Let your charity strive zealously and prudently, and let it not allow the children of the light to be less prudent than the children of darkness. But in providing for these matters, the correct course must be followed. For neither clerics nor lay Catholics devoted to Catholic action should merely gather the people; rather, they must deeply nourish them in the truths of the Catholic faith, so that each one may understand what office or duty is his own, and may draw fruit from it through his actions. Christ must be formed in each and every faithful person, before they are able to fight for Christ. If anything new should seem necessary after careful consideration, this task can be accomplished by those who, having heard the teachings of holy discipline, have excelled in the faithful struggle for the good of the faith. Catholic periodicals are most useful in providing assistance, and indeed, assistance adapted to the times. For such pages, easily accessible to many, are of great value in preserving the seeds of truth, in refuting errors, and in encouraging and exhorting the faithful; and no one who has experienced this can deny it. It is unthinkable that such good instruments should be lacking for the edification of the faithful, when the wicked so miserably abuse them for destruction. However, it must also be ensured that such instruments are handled by those who are able and willing to use them properly: that is, those who are rich in doctrine and who do not neglect their own duties, those who know how to fight for the most holy cause. Finally, in matters of a political nature, what Catholics should follow and what they should avoid is not obscurely evident in the documents provided for this purpose by Our Predecessors, documents of the greatest importance. You must give due honor to these at all times; above all, we urge the faithful, and especially those of the clergy, not to dissipate their strength and divide their minds with partisan pursuits or useless contentions, at a time when the present or impending struggle demands that all Catholics have one and the same mind, one and the same will, and one and the same action. You, venerable brothers, have what is desired from Our desire for the common good of your Churches; and I am so certain that you will all diligently devote yourselves to these matters in the upcoming meeting, that I refrain from further exhortation. In the meantime, as a witness to Our benevolence and the divine blessings of Our ministry, We impart to you all, venerable brothers, to the clergy and to the people of each of your dioceses, Our apostolic blessing, in the Lord. Given in Rome, at St. Peter's, on the first day of August, in the year 1916, of Our pontificate, BENEDICT XV.

[*Latin ed. p. 313*]

The Most Holy Congregation of the Holy Office, 313. MOST HOLY

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SUPREME CONGREGATION OF THE HOLY OFFICE, CONCERNING INSTRUCTIONS ON RESERVATIONS OF CONSCIENCE IN CERTAIN CASES. Since experience has demonstrated that cases which are called "reservations of conscience," if they exceed due measure and moderation, can tend more to the detriment of souls than to their benefit; the Most Holy Sacred Congregation of the Holy Office, adding to previous provisions concerning this matter, and for the opportune time, by express mandate of the Most Holy Pope Benedict XV, has decreed that this should be communicated definitively and obligatorily to all and to each Ordinary of places:

1. Above all, the Ordinaries should remember that reservations of conscience are to be directed towards the destruction of defenses, according to the Apostle (2 Corinthians, 10:4), that is, to remove obstacles which are a common impediment to the salvation of souls; therefore, generally speaking, they should not resort to this extraordinary remedy unless, after the matter has been discussed in a diocesan synod, or, outside of the synod, after having heard the Cathedral Chapter and a few of the most prudent and upright guardians of souls in their diocese, they are convinced of the true necessity or utility of the reservation in the Lord.

2. Furthermore, the cases to be reserved should be very few, three or, at most, four, and should be specifically determined from among the most serious and heinous crimes; and the reservation itself should not remain in force longer than is necessary to eradicate some public vice or to restore Christian discipline that has perhaps collapsed.

3. Generally speaking, sins that are purely internal should not be subject to reservation, since, as taught by Benedict XIV (De Syn. Dioec., V, 5, 5), it is not received in practice ever to reserve such sins, due to the danger to souls.

[*Latin ed. p. 314*]

314 Acta Apostolicae Sedis - The official commentary states that those matters which, due to human frailty, do not possess a special malice attached to them, should be treated with consideration. 4. Furthermore, Ordinaries should abstain from reserving those sins which are already reserved to the Apostolic See, lest the number of laws be unnecessarily multiplied; and, regularly, also from those to which a censure, although not reserved to anyone, has been imposed by law; for this is expressly prohibited by the old Instruction of the Holy Congregation of Bishops and Regulars of November 26, 1602, which states: "Above all, the Holy Congregation deems it necessary that Ordinaries themselves see to it that they do not reserve those cases for which a major excommunication has been imposed by law, to which absolution is not reserved to anyone, unless perhaps some particular case of this kind appears to require to be expressly reserved, due to frequent scandal or some other necessary reason." 5. Moreover, they

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must be entirely cautious and exceedingly sparing in the use of penal sanctions, especially excommunications, with which they may wish to associate their reservations; for, as the Most Holy Trident Council wisely admonishes (Session 25, de Ref, c. 3): "Although the sword of excommunication is the nerve of ecclesiastical discipline and very salutary for restraining the people in their duty, it must nevertheless be exercised with sobriety and great circumspection, since experience teaches that, if it is wielded rashly or for trivial reasons, it is more likely to be despised than feared, and to cause harm rather than salvation." 6. However, once statutes and reservations which they have judged to be truly useful or necessary have been established, they must take care to bring them to the knowledge of the faithful, in the best way that seems suitable to them – for what is the value of them if they remain hidden? – and they must maintain these, as long as necessity or utility persists, and they must not grant the faculty of absolving from these reservations to anyone indiscriminately. The intention of the Holy Congregation is that this faculty of absolving should be habitually granted at least to the Canonicals Penitentiaries, even to Collegiate Churches, and to Vicars Forane and those acting in their place, and to these last, especially in places of the diocese that are more distant from the episcopal see, also the faculty of delegating this power as often as their confessors in their district, if and when, for some urgent and specific case, they turn to them. 7. Finally, to avoid the serious inconveniences which could easily arise from reservations, even those which are useful and necessary, in certain particular matters, the same Holy Congregation, in the name and with the authority of the Most Holy, decrees the following: a) Any reservation made by an Ordinary ceases by law, whether it concerns the sick who are unable to leave their homes and wish to confess; or whether it concerns...

[*Latin ed. p. 315*]

The Most Holy Congregation of the Holy Office, in its decrees concerning confessors, states: 315. To confessors who hear confessions of those intending to enter into marriage: either because, with the prudent judgment of the confessor, the power to absolve cannot be obtained from the legitimate Superior, or because there is a grave inconvenience to the penitent, or a danger of violating the sacramental seal. b) The reservation likewise ceases if, having requested the power to absolve from the legitimate Superior for a specific case, this power is, by chance, denied; however, it ceases only for that occasion. c) During the entire period necessary to fulfill the Paschal precept, confessors, or those acting in the name of a parish priest, can absolve from sins that have been reserved to them by the Ordinary, without the need for any other power. d) When Sacred Missions are being held for a particular people, each missionary enjoys the same power to absolve. e) Finally, penitents can be absolved from sins reserved in one diocese by confessors, whether secular or regular, in another diocese where

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those sins are not reserved, even if they specifically seek absolution from them. 8. However, above all, Ordinaries should strive to form learned, pious, and prudent confessors throughout the diocese, and should suggest to them the most appropriate remedies for unusual vices, which the confessors themselves would apply if penitents were to turn to them. In this way, while avoiding the inevitable inconveniences of reservations for confessors and penitents, they will be able to achieve the desired effect more smoothly and certainly, with God's help. In the meantime, cases of reserved sins, if any are established in their own diocese, should be brought back into conformity with these prescriptions as soon as possible, observing the manner prescribed in article I of the statute, and they should strive to teach all these things to their confessors. Given at Rome, from the offices of the Holy Office, on the 1st of July, 1916. R. L. Most Reverend Cardinal Merry del Val, Secretary.

[*Latin ed. p. 316*]

316 Acta Apostolicae Sedis - Official Commentary II DECLARATION: "The priest Anthony Caccavari, of the diocese of Nicastro, by "decree of the Most Holy Congregation of the Holy Office on the fourth day of July, in the year of our Lord 1916, was reduced to the lay state, according to the law of celibacy, due to many and grave disciplinary failings, and especially because, "after having been removed from the parish and suspended from the administration of the sacraments, he "continued to exercise the sacred ministry, showing himself obstinately "resistant to all the dispositions repeatedly made by the Holy See concerning him." III. DECLARATION: On the fourth day of August, in the year 1916. Since various doubts have arisen concerning the decree issued by this Most Holy Congregation of the Holy Office on May 21, 1912, regarding the passive assistance of parish priests in the celebration of mixed marriages, this same Holy Congregation has deemed it its duty to declare that said passive assistance is tolerated only in those regions in which the "Decree Ne temere" had been issued, and only in the cases and under the conditions therein expressed; and therefore, marriages contracted outside of the aforementioned regions (that is, with the passive assistance of a parish priest) are not only illicit, but also entirely invalid. And on the fifth day of the same month, the Most Holy Pope Benedict, by divine providence, the fifteenth, in his usual audience granted to the Reverend Father, the Assessor of this Most Holy Congregation of the Holy Office, having been presented with the aforementioned declaration, deigned to approve it benignly and to ratify it with his supreme authority, notwithstanding any contrary provisions. Given at Rome, from the offices of the Holy Office, on the 5th day of August, 1916. Aloisius Castellano,

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Notary of the Holy Roman Church and the United States of America.

[*Latin ed. p. 317*]

5. CONSISTORY MEETING 317. CONSISTORY MEETING I OF WESTMINSTER AND NORTHAMPTON REGARDING THE DIVISION AND UNION. By the decree of this Holy Consistory Congregation, dated July 25, 1916, Our Most Holy Lord Benedict XV decreed that that part of the territory commonly called Royston, which some years ago, by order of civil authority, had been separated from the county of Cambridgeshire and attached to the county of Hertfordshire, belonging to the Diocese of Westminster, be taken from the Diocese of Northampton and assigned to the Diocese of Westminster, so that ecclesiastical boundaries might correspond with civil ones.

II. PROVISION OF PARISHES. By subsequent decrees of the Holy Consistory Congregation, Our Most Holy Lord Benedict XV provided pastors for the following churches:

August 5, 1916. – To the titular episcopal church of Pogla, he appointed the Reverend Rynald Muñoz, a priest of the Diocese of the Most Holy Conception, as governor of the local church called "Chillan" in Chile.

August 10. – To the metropolitan church of St. James in Venezuela (Caracas), he appointed the Reverend Philip Rincón Gonzalez, an urban pastor, parish priest, and vicarious forane, of the Diocese of Emerita in India.

August 19. – To the cathedral church of Apamiers, he appointed the Reverend Peter Marceillac, a priest of the Archdiocese of Toulouse, and there, as pastor of the church of St. Jerome.

August 22. – To the cathedral church of Segovia, he appointed the Reverend Eustachium Nieto and Martin, a priest of the Archdiocese of Madrid, as pastor of the church of the Most Pure Conception of the Blessed Virgin Mary, dedicated in this city.

[*Latin ed. p. 318*]

318 Acta Apostolicae Sedis - Official Commentary. SACRED CONGREGATION OF THE COUNCIL OF HISPALE. REGARDING THE GRANTING OF PERPETUAL JUBILEE. June 19, 1915.

1. Statement of the Case. – A certain priest, holding a dignity in the Metropolitan Chapter of Hispalis, having submitted a suppliant petition to this Sacred Congregation, humbly requested the grant of a perpetual jubilee, alleging a legitimate cause of forty years of service, which he affirmed he had completed for sixteen years in the aforementioned cathedral of Hispalis, and previously in the collegiate church of Matriti, in the cathedral of Teruel, and again in a church in Matriti, from which it had been raised to the status of a cathedral. The Archbishop of Hispalis recommended his petition, also mentioning the favorable opinion of the Chapter; and to these petitions were added attestations from the Chapters of Matriti

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and Teruel, in which the full faith of the petitioners was evident. Furthermore, it seemed appropriate to seek the opinion of one of the Consultors of this Sacred Congregation.

2. The opinion of the Consultor can be summarized as follows. – It appears that, in order for the petitioner to achieve his intention, the established practice of this Sacred Congregation presents a significant obstacle. Indeed, although the benefit of a jubilee is ultimately a mere grace granted by the benignity of the Holy See, nevertheless, with the passage of time, certain rules and conditions for granting such a grace have been established by the practice and decrees of this Sacred Congregation, among which is the requirement of forty years of commendable service rendered in the same church or city, or at least in the same diocese. This is taught, among others, by Santi, *Praecepta*, ed. IV, vol. III, p. 66 ff., with the authority of the resolutions of the Sacred Congregation of Rites, dated December 17, 1718, and Verulan, dated September 17, 1842, as well as by the established practice in the City [Rome], where, it is said, "for the granting of a jubilee, the service of the choir" is counted "rendered successively, in various or several churches, provided that it is always 'Roman'"; De Herdt, *Praxis Capitulorum*, chapter XI, § 3; De Angelis, *Principia Iuris*, vol. II, p. 1, pp. 77 ff.; *Acta Apostolicae Sedis*, vol. VI, p. 430, where it is stated that only "very rare cases" are those in which "the Holy Father, through a special and extraordinary grace, has combined service rendered in different dioceses in order to effect the granting of the jubilee," cases which, since no specific mention is made of them, and since they are called rare, special, and extraordinary, appear to present the exception that often serves to confirm the rule.

[*Latin ed. p. 319*]

The Holy Congregation of Councils, number 319. Therefore, it is established that the service of forty years is required to obtain the grant of the jubilation, at least in churches of the same diocese.

3. If the origin of this rule is sought, the Consultor believes it to be found in the fact that the benefit of the jubilation has gradually been introduced by custom, as an extended interpretation of that canonical reason for absence from the choir, which is founded on the benefit of the Church. Indeed, all know that, according to the decrees c. u. n. de Gier, not resid. (III, 3) in VI, it is legitimately permissible for the distribution [of alms] to be given daily to him who, for the benefit of the Church to which he serves, is absent from the choir; hence, it appears, in the judgment of the Consultor, that it would be considered sufficient to have contributed to the benefit of the Church, and to have deserved it sufficiently, for one who has faithfully served the same Church for forty years, so that he might be released from the burden of further service, by a certain equity. This is confirmed by the words of Fagnani, in c. Licet, de Praebendis, n. 166: "Statutes of churches are

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tolerated which declare jubilees and exemptions from the choir for those who have served the church continuously for 40 years. This is understood to be established for the benefit of the Church, so that Canons and Ministers may be more eager to offer their service to the choir for a longer time, in the hope of obtaining this exemption..." Frequently, the Holy Congregation, through its Secretary, has granted indulgences to Canons... who have attended divine services continuously for forty years, so that they may, as having deserved well of the Church, receive and enjoy the distributions, even though they are not present in the choir (cf. Garcia, De Benef. III, c. II, n. 344?).

Now, having established this origin or legal basis of the benefit of the jubilation, it is clear that the Church to which this pertains is, in fact, the particular or proper Church to which the one to be granted the jubilation is attached, and not the universal Church, or even the entire nation or diocese (cf. Gerunden., Distributionum choralium in Actis Ap. Sedis, 1915, p. 262). Therefore, it would seem to follow that it should be considered inadmissible for one to receive the benefit of the jubilation who has not completed forty continuous years of service in the same church, but in different churches, even within the same diocese, in Chapters.

4. However, a gradual departure has been made from this strictness or subtlety of the law, so that today (as is certainly known, even from the practice of the Holy Congregation), it is by no means considered to be in accordance with canonical equity to exclude anyone from this benefit of the jubilation, solely on the grounds that he has served in different churches within the same diocese; and this, indeed, should undoubtedly be attributed both to changed circumstances and to a new legal concept of the jubilation. For, in the first place, today in some jurisdictions, collegiate churches no longer enjoy their own property, nor do they have independent administration of their affairs, but are instead provided with an annual allowance which they receive from the government from a certain fund.

[*Latin ed. p. 320*]

320 Acta Apostolicae Sedis - The official commentary has gathered information concerning the deprivation of churches; also, translations of canons, from chapter to chapter, which were formerly rare and objectionable, have become very frequent in our day. Therefore, it might not always be correct to oppose, to those who, having recently been received into the Church, would request a pension, considering that their merits are ignored in the preceding chapter, and that the services rendered to other churches or places cannot be rewarded from the goods of the chapter. Hence, the original legal notion of a pension, based on the benefit to the Church, is joined by another (which, in any case, can be considered to have some affinity with the former, or at least to be contained within it), namely, the benefit and reward to the person, considering more the merits of the canon

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himself: by comparison with Roman, or civil law, in which, at times, those who cease from military service or public duties are granted pensions, having dedicated at least forty years to the public good, and this, anywhere and in any rank or office. 5. This new legal notion, with its consequences, does not seem to be to be rejected, in the judgment of the Consultant who wrote, since it appears to be quite consistent with what is established by custom, and with the custom of adapting and accommodating to new circumstances. Moreover, this notion of a personal pension seems more noble, and more suitable to achieve the purpose for which this benefit was established; for example, a canon transferred from one diocese to another, after many years of service in the former, so that he cannot hope to serve for another forty continuous years in the latter, and therefore will not receive a pension, although he has deserved it well, will certainly be less inclined to diligently and zealously perform choral service, than if he knows that the time of service rendered in both dioceses can be combined together. Furthermore, if these things are generally admitted, nothing seems to prevent the granting of the requested permission. In Spain, canons enjoy benefits only from those stipends which are paid by the Government, for the excellence of the chapters; hence, as a kind of advancement to better things, translations of canons from one chapter to another, even in different dioceses, are granted according to merit, and cannot be avoided; thus, cathedral chapters, as it were, provide themselves with the best and most outstanding men of the nation. In our case, a canon served the Church of Hispalensis for sixteen years, and for this reason, he can certainly be considered to have rendered sufficient service to it; and there is no fear that the choral service, in so important and numerous a chapter, will suffer from this pension. Therefore, the Consultant concludes, confirming the vote of the Most Reverend Archbishop of Hispalensis, that the requested indulgence should be graciously granted in this case.

[*Latin ed. p. 321*]

The Holy Congregation of the Council, after hearing the prayers of the Orator, in the plenary assemblies of the Most Reverend Fathers of the Emissaries and Roman Fathers, held on June 16, 1915, decided to grant the requested favor, in the usual manner. This resolution was approved by Our Most Holy Lord Benedict, Pope XV, through divine providence, in an audience granted to the undersigned Secretary on the 18th of the same month. O. GIORGI, Secretary.

RESOLUTION: The Holy Congregation for the Propagation of the Faith.

APPOINTMENTS:

By Apostolic Briefs, the following were appointed:

November 27, 1915. — The Bishop of Ghristopolitan, Reverend Father Matthaeus Brodie.

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April 15, 1916. — The titular Bishop of Tenedius and Apostolic Vicar of Arabia, Reverend Father Evangelista ab Usselle, of the Order of the Capuchin Minor Friars.

April 28. — The Bishop of Ballarat, Reverend Father Daniel Foley.

July 8. — The Bishop of Port-Louis in the island of Mauritius, Reverend Father Ioannes Damascenus a Vovrai, of the Order of the Capuchin Minor Friars.

The Holy Congregation of Rites of Turin.

DECREE CONCERNING THE BEATIFICATION AND CANONIZATION OF THE VENERABLE SERVANT OF GOD, JOSEPH BENEDICT COTTOLENGO, CANON OF THE SMALL HOUSE, FOUNDER OF DIVINE PROVIDENCE.

REGARDING THE QUESTION OF MIRACLES:

Does it appear, and by what miracles, in the case and to the effect, of which we are speaking? In this bitter time, how important it is to recall and consider the merits of that illustrious man from the priestly order, whose name is Joseph Benedict Cottolengo, as seen from the records, volume VIII, numbers 9-16.

[*Latin ed. p. 322*]

322 Acta Apostolicae Sedis - The official record, on the one hand, details the miseries that surround and oppress, and the cause and origin of these; on the other hand, the entire life of this venerable servant of God, and his faithful and expressed image, undoubtedly suggest and signify much. Although perhaps never before in past ages has there been so much preaching of human brotherhood, this is nonetheless not, nor can it be, anything other than a deceptive, feigned, and corrupted species of true and fraternal love, since, as the charity of Christ waxes and wanes, so too can the love for one's neighbor never flourish, as has now become clear to the whole world, from which that divine voice resounds: "And this commandment we have from God, that he who loveth God love also his brother" (1 John 4:21). Indeed, these two loves, namely, the love of God and the love of one's neighbor, are so closely connected and related that they cannot exist without each other, and where one ceases, the other can no longer find its place. Truly, although they may seem to be two, nonetheless there is always only one and the same love of God, which, just as conclusions are contained within principles, embraces and explains the love of one's neighbor, as is the opinion of the Angelic Doctor (2-2, q. XLIV, art. 1, in corp.). From these things, it spontaneously follows and is easily understood that this lamentable situation, which is before everyone's eyes, the condition of civil society, which, by revealing its injury, is manifestly and completely overturned by the divine precept of fraternal love, reveals itself to be entirely

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neglected and impiously violated, and that this is the greatest and first commandment of charity.

Therefore, when the supreme principles of the entire Christian life are at stake, it is most opportune and fruitful to present the servant of God as an example, who, by his example, teaches and warns that there can be no love for one's neighbor separate from the love of God; moreover, that, as has already been said, fifteen years ago, by an apostolic decree, in which the heroic virtues of the aforementioned venerable servant of God were approved, God Himself has deigned to ratify and confirm these same virtues with the testimony of miracles.

Of the various deeds that were celebrated by fame as prodigies, two healings have been selected, as they are more suitable for establishing certainty, which, especially when dealing with miracles, the laws of this sacred court necessarily require to be explained. It is reported that there were cases of diseases which they call "organic," and that, through the faithful intercessor before God, the venerable Joseph Benedict Cottolengo, the servant of God, these very diseases were expelled in a moment of time, and that a part of the body, or of the viscera, which truly and materially, or anatomically and pathologically, as they say,

[*Latin ed. p. 323*]

The Holy Congregation of Rites, number 323, had been gravely offended, but had been fully and perfectly restored to its natural physiological integrity. These things did not happen through the power of nature, nor can they ever happen in such a way, as has been clearly demonstrated by the concurring testimony of three distinguished men, skilled in the art, and which any even unlearned and ignorant person can readily understand. Indeed, this matter has been brought about through a severe and prolonged discussion; the question was first raised in the preparatory congregation, then again in two subsequent preparatory congregations, and finally, on the eleventh day of the month of July, in the fourth general congregation, before the Most Holy Lord Benedict XV. In this assembly, after the matter had been discussed, and the question had been raised as to what miracles were involved in this case and to what effect, all those present, both the Most Reverend Cardinals and the Consultor Fathers, gave their votes in order, and with joyful and attentive spirits, the Most Holy Lord delayed revealing His decretal judgment, meanwhile more earnestly imploring the light of the Divine Father. On this day, which was the ninth Sunday after Pentecost, after a sacred and most devout ceremony, He ordered the Most Reverend Cardinal Anthony Vico, Bishop of Portua and of St. Rufina, to be summoned to the Holy Congregation of Rites as Prefect of the cause and as Relator, together with the Reverend Father Angelo Mariani, Promoter of the Faith, and myself, the undersigned Secretary, and with those assisting, He solemnly declared: "It is established that there are two proposed

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miracles; namely, the first, the instantaneous and perfect healing of Mary Liberata, who was afflicted by a very grave and lethal cystitis caused by absorbed urinary elements, and the second, the instantaneous and perfect healing of her sister, Mary Perdolenti, from biliary cirrhosis. He ordered that this decree be made public and recorded in the acts of the Holy Congregation of Rites on August 15th of the year 1916.

A. CARD. VICO, BISHOP OF PORTUA AND ST. RUFINA, SECRETARY OF THE HOLY CONGREGATION OF RITES.

L. VERDE, SECRETARY.

[*Latin ed. p. 324*]

Acta Apostolicae Sedis - Official Commentary

ACTS OF THE SACRED ROMAN TRIBUNALS, PARISIAN, OR NICE.

NULLITY OF MARRIAGE (MASSIER-GAUTHIER)

Under the blessed reign of Pope Benedict XV, in the second year of his pontificate, on December 30, 1915, the Most Holy Father, with the advice of the Sacred Congregation, decreed that the following definitive sentence be issued in the Parisian, or Nice, cause concerning the nullity of marriage, between John Massier, the appellant, represented by his legitimate procurator, Advocate Vincent Sacconi, and German Gauthier, the appellee, who intervened in the cause as defender of the marriage bond ex officio:

1. In the church of Saint Augustine in Paris, on March 10, 1900, John Massier, residing in Vallauris, in the diocese of Nice, entered into marriage with German Gauthier, a Parisian, a young woman of considerable fortune; and immediately, they established a conjugal life so peaceful that, for almost fifteen months, there was never the slightest disagreement between them; indeed, they duly observed the natural law concerning the consummation of marriage, and without any difficulty, they fulfilled their marital obligations; and before the full year of marriage had elapsed, a child was born to them. At this time, John, having left his paternal home, established his residence in the city of Nice, together with his wife and the child born to them; then, domestic happiness began to be disturbed, and peace fled from the conjugal home; for the husband no longer maintained the accustomed life with his wife, as he had previously done, and, to the great distress of the wife, who was suffering from this change, and who was seeking a different way of life, he did not hesitate to confess that he had been compelled to enter into marriage with her only by his mother, through threats of being disinherited and expelled from his paternal home, and not out of a sincere affection of his heart or his own free will; and this was because he was in

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love with another woman.

[*Latin ed. p. 325*]

The Roman Rota, in the year 325, was vehemently affected by love, which she declared she would never abandon. Upon receiving this news, and knowing of her husband's unjust intentions, and despairing of finding any other way to protect herself, Germana left the conjugal home, and, together with her daughter, took refuge with her parents, intending to remain there permanently; this occurred in December of 1902. In the meantime, the mother of John died on March 30, 1903. However, Germana, taking advantage of her mother-in-law's illness, visited the sick woman at her home in Vallauris, intending to offer acts of charity, and there she sought to reconcile with her husband and restore their marital union; but in vain. For John did not accept his wife's pleas, and in August of the year 1903, Germana began proceedings before the civil authorities to obtain a divorce; which she indeed obtained through a judgment on July 21, 1908, and subsequently married another man in a civil ceremony. With matters thus standing, and after almost eleven years had passed since the woman's departure, John on April 11, 1913, presented a petition to the Most Holy Prince, humbly requesting that the cause of his marriage be considered, even in the first instance, before the Tribunal of the Holy Roman Church, and that its nullity be declared under the grounds of force and fear. And indeed, having obtained the Pontifical commission, the proceedings were duly completed in the Nice court, and the case was presented for definition in the plenary session of March 25, 1915, from which the judgment was issued: that there was no proof of the nullity of the marriage in this case. But the plaintiff's advocate legitimately appealed from this judgment to another plenary session, and today the case is again presented for examination and definition under the usual formula: Whether the judgment of the plenary session of March 25, 1915, should be confirmed or overturned in this case?

2. Concerning the Law. Since marriage is itself a natural contract, elevated by Christ the Lord with the dignity of a Sacrament (Pius XII, Encyclical Humilitati, May 24, 1829), just as other contracts are perfected by consent (Chapter V, on Bigamy, Law 30, of the Institutes), it follows that whatever harms consent, harms marriage, since all kinds of consent require freedom, which is the power of one's own act to oppose. Indeed, fear is an obstacle to consent, and is therefore numbered among the impediments that invalidate marriage; but whether this is the case according to natural law (Pont. IV, 14, 4), or according to canon law (Sánchez, IV, 14, 2), has not yet been fully explored. An act performed under fear, even if grave, is always simply voluntary; but it is also, in a certain sense, involuntary: hence, restitution is given to the one who suffered the fear; indeed, an exception is given because of the fear, so that he who, through fear, gives

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something,

[*Latin ed. p. 326*]

326 Acta Apostolicae Sedis - Commentarium Officiale. Either he was compelled to effect the marriage, and may repeat the dispensation, or the marriage may be declared invalid against him who obtained the promise through fear, so that he is not bound to fulfill it. But since marriages, once begun, cannot be dissolved, those begun through fear are declared invalid from the beginning. "Natural law renders certain acts subject to rescission at the request of the party who experienced fear; but since this cannot be applied to marriage, it must be declared invalid, otherwise the innocent party would not be protected" (Gasparri, II, chapter IV, no. 934).

3. Therefore, it is established by legal inquiry that a marriage contracted through fear is null and void, provided that the fear meets the required conditions, at least according to canon law (cap. *Cum locum*, 14; *Cum veniens*, 15; cap. *Consultationi*, 28; *de Sponsal. et matrim.*; cap. *Significasti*, 2 *de eo qui dux. in matrim.*), a point acknowledged by all theologians and canonists (St. Thomas, 4th part, distinct 29, question 1, article 3; Sánchez, *de matrim.*, 1. 4, disp. XII; Reiffenst., book IV, title 1, no. 325; Schmalz., book IV, title 1, no. 386). Therefore, not every fear has this effect, but only that which is caused by an external force, or by a person, and which: 1) directly induces consent, or compels the marriage (cc. 15, 28, *de sponsal. et matrim.*; cap. 2, *de eo qui dux. in matr.*), although some doctors of great renown object (Schmalz., 1. IV, t. 1, no. 398; Lugo, *de Iust. et Iur.*, no. IX, 175 seq.); 2) is unjust (cap. 10 ibid.; Pont. IV, 19, 7), in its substance (according to L. 12, § 1, which states that fear is the cause); 3) is grave, either absolutely or relatively (cc. 15, 28 *de sponsal. et matrim.*), even if it is only reverential, although something may be added to it, such as importunate prayers, threats, quarrels, vexations (D'Annibale I, p. 104, no. 128, edition III; Gasparri II, p. 54, no. 493, edition III; Rota, Parisien., February 26, 1910; also Parisien., March 13, 1911); a slight fear is not considered, because no one is presumed to have been compelled by such a fear (L 6, 7, 8. *Quod metus causa*).

4. What constitutes a truly grave fear is explained by Alexander III in chapters 15 and 28 *de spons. et matrim.*, and by Innocent III in chapter 6 *de iis quae vi metusve causa fiunt*, who state that it is the fear that overcomes a steadfast man. But in determining whether there is fear, one must consider not only the objective consideration of the threatened evil, but also the condition of the person experiencing the fear, so that the imminent or future evil is grave for that person, who is afraid; that is, so that this person is easily unable to endure it, and also believes that the evil truly threatens him. If either of these is lacking, or even if only one is lacking, the fear is slight (Gasparri II, no. 940-944). Therefore, the instruction of the Holy Office of June 20, 1883, rightly teaches: "The gravity of fear arises from

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the nature of the things, from the quality of both those from which they originate, and of those who are said to suffer them."

[*Latin ed. p. 327*]

S. Romana Rota 327 « tur ». Therefore, it is the duty of the judge to determine whether the fear is grave or light and frivolous; but even when considered, besides suitable witnesses, and the antecedent, concomitant, and subsequent circumstances, if the fear, as it were, hidden in the mind, is difficult to prove (Fagnanus, in cap. Consultationis, 1% de sponsal. et matrim.; Gasparri II, n. 491; Rota coram Ludovisio, decis. 326; vol. III decis., p. 205). But in case of doubt, the fear is presumed to be light, due to the favor towards marriage (Layman, lib. V, tract. X, par. 2, cap. V, n. 4). 5. It is not sufficient that it is proven that someone was truly afraid; unless it is also established that this fear persisted up to the celebration of the marriage: for then it can truly be said that the fear was the cause of the marriage, from which a necessary effect is derived; otherwise, this is not admitted. It often happens that what was previously unacceptable, after better consideration, is later accepted; and therefore, it can happen that someone who was unwilling to marry before, and who only agreed to it under compulsion, may later, with a change of mind, freely and willingly consent to it. This is sufficient to presume that the marriage, which enjoys the favor of the law, was freely entered into, unless the existence of the fear at the time of the celebration of the marriage is proven. 6. But he who alleges fear is opposed by the presumption, and therefore, if he wishes the contrary to be maintained, he must be proven with clear, conclusive, and stronger evidence (decis. Rot. Rec. dec. 117, n. 3; dec. 290, n. 1; dec. 469, p. 3; dec. 45, n. 7, par. 4, tom. I). Therefore, John Massier, unless he legitimately proves that he had a true fear, vainly contends for the nullity of his marriage; "for the presumption, which makes an act valid, is the queen of all presumptions; and therefore, the validity of an act is presumed until it is proven to be invalid" (Reiffenstuel, lib. V, tit. 23, n. 91). Indeed, this proof does not result from the acts. 7. Regarding the facts. - In truth, the Most Reverend Fathers, after examining the acts, initially held that it was not proven that the alleged fear was truly present: for the depositions presented to prove this do not demonstrate it. Indeed, both spouses testified that John had threatened his son; the husband affirms that he married German Gauthier only under compulsion due to threats (Sum. I, p. 4; III, p. 8): this is also affirmed by German (Sum. IV, p. 22, qu. 3). But since these individuals testify on their own behalf at a suspicious time, one may at least doubt whether they are speaking the truth; and therefore, full credence cannot be given to them. "The confession made by spouses after the marriage contract, to the extent that it is contrary to the validity of the marriage, has no force" (Instructio Austriaca, n. 148); likewise, "the oaths sworn by the spouses, as well as

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their confession,

[*Latin ed. p. 328*]

328 Acta Apostolicae Sedis - Commentarium Officiale: "to provide proof of the impediment existing, or to supplement 'it cannot' (l.c. n. 169)." The Rota declares: "The confession of the spouse is not considered regarding the dissolution of the bond" (dec. 264, n. 44, Par. V, Tom. I Rec.; dec. 155, n. 57, Par. VI, Rec.). Therefore, Lega rightly says: "In cases of nullity, the confession is suspect and almost of no value when it is given at a time when suspicion exists, or after an accusation has been instituted against the marriage." And in this case, this suspicion is not without foundation; for it is of the greatest interest to both spouses that the nullity of the marriage be declared, so that they may, having regained their freedom, contract other marriages, which they are said to desire, even if a final judgment does not favor them, considering the offense to God and the ruin of their souls to be of no consequence. Thus, the parish priest Ardisson: "What I can add is that both spouses are determined to contract another marriage, whether or not they are recognized as free by Rome"; which, moreover, had already been hinted at by the witness Maurel: "I even made efforts, but without success, because each of them loved another."

8. Better proof does not arise from witnesses. For those who give testimony in court are witnesses of knowledge (can. 15, caus. 3, p. 3), or who testify according to what they perceive with their senses (from L. 14, c. de Test.; § ult. de Testam.); but not witnesses of credulity, which is considered less than the evidence on which it is based, or of hearsay, which gives rise to the highest presumption (Mascard, de Probat., Conci. 60): and if they have received testimony from someone not worthy of belief, then there is no reason to have faith in the testimony (cap. 47, de Test.). Indeed, those who were questioned in this case, with the exception of Augustine Barel, and in the most recent investigation, Leonia Blanchard, of whom we shall speak later, are not true witnesses, but witnesses of hearsay, who either received testimony from someone not worthy of belief, or from the plaintiff himself, such as Danillon, Alphridus Massier, Maissa; or they received it from the plaintiff's mother, who, having died, could not be heard so that the truth of the facts could be ascertained. Therefore, either the value of these depositions is nil if they are referred to previous witnesses, or it is doubtful if they are referred to others.

9. Moreover, after the depositions were published, indeed even after the sentence adverse to the plaintiff was published, the witnesses were questioned again, and others were brought in: although this is not prohibited in matrimonial cases (cap. 35, de Test.), it does not cease the legal suspicion, which is contained in a general prohibition (cap. 17, de Test.; cap. % cod. tit. in Clementinis), and which is evidently apparent in this case. For those who, having been questioned initially, gave general testimony, with the

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exception of Maurel, after having heard the testimonies and after having known the reasons for the sentence, were questioned again about specific threats, and spoke according to the suggestive questions that were put to them.

[*Latin ed. p. 329*]

The Roman Rota judged that the variation in the testimony regarding the guilt of the judge was attributable to the instructor of the actor; for, since the questions had not been adequately presented to the witnesses, it was necessary that they be questioned again with greater care, from which arose the difference in the depositions. However, in the initial inquiry, the same questions were put to all the witnesses indiscriminately, and although not exhaustive, they were sufficiently appropriate. And this is indeed true, as Maurel, having heard this questioning, testified about the threats made. What one could say, the others could have said as well. Therefore, the variation in the testimony is not due to a defect in the questioning, but to another reason. Furthermore, the actor's advocate himself affirms this, stating that in the supplementary inquiry, they were questioned not about the same matters, but about different ones. In the initial inquiry, they were asked about the cause that compelled John to marry, and that made him unwilling: "Do you know if Mr. Jean Massier freely and fully consented to his marriage with Miss Gaut yesterday?" In the second, supplementary inquiry, they were specifically asked about the threats: "What did you know about the threats... What did these threats consist of?" Therefore, the same thing was asked in both inquiries, namely, whether the marriage was entered into with a free will, or with a coerced will, although in a different form; general in the first, specific in the second, and therefore the legal suspicion is not dispelled. And this is also proven by the fact that the witnesses, motivated by the interests of one party, appear to show the most obvious contradiction between the actor and their testimonies; for while the actor stated that the threats were made after the separation from his wife, all the witnesses state that they occurred before the marriage, and indeed, to extort consent for it. When the judge asked the witnesses if they knew "if Madame Massier was also pressuring the aunt of Mr. Jean to disinherit him if he did not consent to marry Miss Gaut?", they all answered in the affirmative. Hence, it is explained why, as the appellate judgment rightly observes, persons outside the family were made participants in the conversations and plans regarding the marriage by the actor's mother, which the son himself was completely unaware of; for since this is incredible, the statement made by the witnesses is maintained against the truth. Nor is the explanation of the advocate sustainable, which states that John's mother, who would not allow anyone to oppose her will, concealed her actions from her sons so that they would not encounter opposition, which she revealed to outsiders. Indeed, as Paul and Blanchard state, the disagreements between the mother

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and son, and the threats within the family, were not concealed: "Jean... had quite heated discussions with his mother about this... Mrs. Massier threatened her son in my presence with disinheriting him and expelling him from the house if he did not marry Miss Gaut."

[*Latin ed. p. 330*]

330 Acta Apostolicae Sedis - Commentarium Officiale: Thus, the brothers of John would not have been ignorant of the matters concerning which "the persons of the 'house' also had knowledge"; then, what the sons had not learned from their mother, they could have learned elsewhere, and especially from those who were accustomed to workshops and whose habits they frequented, and who were not unaware of contentions and threats; and therefore, the mother had not avoided open opposition. Therefore, the ignorance of the sons cannot be reconciled with the knowledge of threats from external parties, and the argument thus raised is excellently supported by the first judges.

10. If the depositions themselves are examined, at least the principal ones, another argument arises, which undermines the credibility of the witnesses. Alphrid and Joseph Massier are at odds with each other; for the former admits that threats were made by the mother, but says that he received them from his brother John, whom he could have directly known about, since they lived together in the paternal house: "My brother, with whom 'I lived, confessed it to me';" but the latter completely denies the threats, while on the contrary, he admits only persuasions from the mother's side: "My mother, 'I do not believe that she made threats; but she above all persuaded my 'brother that it was in his interest to marry this person.'" Indeed, Joseph lived in Nice; but he maintained excellent relations with the members of the family; indeed, he even enjoyed the mother's trust, "she usually confided in me," and he was also informed about his brother's marriage, at least after everything had been settled: "She did not speak 'to me about this marriage until she had everything arranged," and everything, as it turned out, was revealed to him by the mother; for, having heard these things, Joseph did not omit observations, which the mother did not accept: "I tried 'to make a few observations to her about the seriousness of this project; she 'replied that she knew very well what she was doing.'" Nevertheless, he denies the threats, and admits only persuasions. Whom should one believe? Certainly not Alphrid; for his deposition is confused with the deposition of his brother John, and it does not deserve more credibility than that. Furthermore, he is suspected of withholding information, for when answering a question from the judge, he affirms more than the plaintiff himself desires, claiming that not only the mother, as John wants, but also the father made threats to him: "My brother was 'forced by my mother, under threat of disinheriting him, and by my father to 'banish him from the house if he did not consent to this marriage," and he adds that the

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mother also made threats of disinheritance: "Even his 'godmother, who was his 'aunt, threatened him as well with diminishing his 'share of the inheritance if he 'refused to consent to this marriage."

11. Augustus Barel contradicts himself, and openly lies; for he said under oath in the first inquiry: "I do not know if she ' (the actor's mother) made threats to her son to make him consent."

[*Latin ed. p. 331*]

(The Roman Rota, in Session 331, affirms most clearly: "I know that Mr. Jean did not want to marry Miss Gauthier, and that Mrs. Massier was very keen on this marriage, and that she wanted to force him into it, and threatened to turn him out and disinherit him if he refused." The parish priest of Ardisson excuses this witness from the charge of contradiction and falsehood due to a lack of education; but in vain. The depositions are so clear that no particular intelligence is required to understand them correctly, and to perceive the difference between the first statement: "I do not know if she made threats to her son," and the second: "I know... that she wanted to force him into it, and threatened to turn him out and disinherit him... I have heard it myself, several times." The parish priest's defense was not even accepted by the witness himself, Barel, who rather sought to explain that the defect in the first deposition stemmed from a writer's error: "Surely an error has crept in when my deposition was transcribed," failing to notice the futility of this explanation: for if the writer had erred, upon hearing the written deposition, the witness himself would have noticed the error and corrected it. However, when questioned a third time, the parish priest made his defense: "My answer, at the first interrogation, was not given in that way, because, due to my lack of education, I did not fully understand the question." It should also be noted that this witness, who was attached to the plaintiff, "having remained in the house for twenty-four years," had stated on April 24, 1914: "You only need to summon me again, as I am ready to correct an error," and had kept his word on June 4, 1914, in the second deposition, and on May 14, 1915, in the third. 12. In the most recent investigation, Leonia Blanchard is called as a witness, who, being a witness of knowledge: "Mrs. Massier threatened her son in front of me," should have given full credence in the judgment. But if the witness is telling the truth, it is not explained why she was not called in the first or second, but only in the third investigation; and then, when she recounts facts that occurred frequently in the family: "I knew it, because I frequented the house, and I heard her repeat it frequently... Mrs. Massier said it to him often herself..." it is not explained why Alfred, who lived in the family, did not notice it. Add to this the excessive naiveté of this witness, who, in answering a suggestive question, and contrary to what the plaintiff affirms, besides the mother's threats, mentions the danger, along with the loss of the paternal home, of losing the inheritance of both father and uncle,

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and exaggerates the amount of the maternal inheritance, extending it to ten times a hundred thousand livres, in order to conclude that this constitutes a quarter of the serious damage, and that Jean was fully aware of it (Summ., second part, p. 20-21, nos. 7, 8, 9, 10). Therefore, this witness is suspected by the RR. PP. in this cause.

[*Latin ed. p. 332*]

332 Acta Apostolicae aedis - Commentarium Officiale: The testimony given by the accuser; and therefore, its deposition, lacking all force, is held to be invalid. Danillon is also mendacious; for, in the initial inquiry, he stated that he had perceived threats, but was unable to specify them in detail: "Je sais que la mère fit des menaces; mais je ne puis préciser en détail « quelles furent»," more than he had determined them in detail when he was questioned in the second instance: "11 (Ioannes) me dit: "Ce qui me fait le plus de « peine c'est que ma mère m ' a menacé de me chasser de la maison et « de me déshériter si je ne fais pas sa volonté, et je ne puis m'y « résoudre „»." 13. Indeed, the witnesses are not only said by the parish priest Ardisson (Summ., addit., I, p. 15 et seq.) to be men "d'une parfaite honorabilité," but the Tribunal of Nice (Summ., addit., III, n. I) was also persuaded of their probity, honesty, and truthfulness. But whether such testimony should be considered at all is, at first, open to doubt. For the parish priest Ardisson, whose testimony is itself the source, appears to have some interest in the case. And this is not only evidenced by his entire conduct, whether in lavishing praise or in defending witnesses, and in vindicating them from contradictions; but also because Ioannes's amasia, who, having been freed from the law concerning women, "wanted me (Ioannes) to have my marriage annulled," so that they might enter into marriage together, was under the tutela of the aforementioned parish priest, as the accuser himself stated: "Quand le 11 maii 1907 le docteur Colignon décédait voilà donc Mme Colignon libre à Vallauris ne vivant q u ' auprès de mon curé." However, the Tribunal was persuaded of the witnesses' probity, but the basis for this is not apparent. Furthermore, even if the probity of all the witnesses is admitted, it does not necessarily follow that they did not lie for some reason. And indeed, the matters that have been disputed clearly demonstrate this. Therefore, the existence of fear in the records is not proven. This alone is sufficient to confirm the appealed sentence, notwithstanding any objections to the contrary, and after rejecting them. 14. Nevertheless, they did not neglect to consider the merits of the case, and they maintained with certainty that the fear, which is said to have been instilled in the case, if indeed it had been instilled, was not of such a nature as to constitute an impediment to the dissolution of the marriage; for it does not possess the qualities prescribed for this purpose. For, as the accuser himself stated, the lady Massier was very concerned to bring her son back to a good life, having abandoned his amasia. To this

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end, she proposed to him a marriage with Germana Gauthier. "Cette union m'avait été imposée par « ma « famille qui, pour des raisons d'ordre intime, voulait mettre un terme « à une affection profonde, que je ressentais pour une certaine personne."

[*Latin ed. p. 333*]

S. Romana Rota 333 "My mother, who was the moral head of the family and concerned for my 'future,' had found in Mile Germaine Gauthier all the guarantees 'of happiness and a future, and therefore she advised me to marry this 'young woman, who had confessed her love for me.'" Sed cum Ioannes e vitiorum coeno renuisset recedere, ipsum inter et matrem ortae sunt contentiones, quae ad pravam eius consuetudinem superandam atque vincendam ex parte matris fuerunt ordinatae. "To this desire, 'I responded with a formal refusal, telling my mother that I would never 'marry, having already given my heart.' Several very 'animated discussions took place between us; my mother made me understand 'her decision, I will even say her threat:.... she considered 'acting in this way to fulfill her 'duty as a mother.'" Et revera Ioannes ipse coram Iudice sub iuramenti fide fassus est, se matris consilium non acceptasse, non quidem Germanae intuitu, quae ei non displicebat, sed ne amasiam relinqueret cui amore invincibili se devictum sentiebat. "Why 'did you refuse to marry her? - R. Because I had 'an affection elsewhere, 'and that, without feeling any 'repulsion for her, I could not 'detach myself from my first 'affection.'" Si quae ergo in sermonum aestu a matre factae sunt ruinae, hae directe fuerunt perversae Ioannis voluntati ab amasia retrafiendae, quin matrimonium excluderet tamquam medium ad finem directe volitum consequendum. Hoc revera testis Paul deponit affirmans, se ita accepisse, post inita sponsalia, antequam matrimonium contraheretur, tum ab ipso actore tum ab eius matre. "I 'knew it through Mme Massier and through Jean Massier, during the few months 'that preceded this marriage, while I was 'at the house..." Sed testis Maissa hac de re clarius profert testimonium: "Mme Massier 'had urged her husband to 'favor her eldest son at the expense of Mr. Jean 'in order to force him to 'abandon a relationship that she 'knew about, and to 'marry Miss Gauthier.'" Minae ergo, si quae vere in casu fuerunt illatae, non nisi indirecte matrimonium respexerunt, quae directe metum non induxerunt ad extorquendum consensum in illud. 15. Neque praetensae minae gravem metum produxissent; eiectio enim a paterna domo et exhaeredatio comminatae, in casu vim non habuissent ad illum excitandum. Eiectionem a paterna domo primi Iudices ineptam omnino retinuerunt metui incutiendo, quem Ioannes facile contempsisset; non enim matri, sed patri ius est filium eliciendi ad domo: et quamvis pater Ioannis adeo debilis a testibus dicatur, ut uxoris voluntati facillime se submittere!, hoc tamen non adeo urgendum esse censuerunt, ut in eis etiam, quae patriam potestatem respiciunt, mulieris subiret imperium veluti mancipium. Huius argumenti vis non

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eliditur per ea,

[*Latin ed. p. 334*]

334 Acta Apostolicae Sedis - Commentarium Officiale: In novissima inquisitione, testes deposuerunt, affirmantes Ioannem matrem viro sibi lucrando, et suisque placitis in hoc etiam subiiciendo, sedulam operam impendisse; idque Ioannem non latasse. Primo, qui inducti sunt testes, fidem non merentur, cum ex dictis sint suspecti. Deinde, non sunt veri testes; si enim unum vel alterum excipias, de quibus iam actum est, omnes sunt testes de credulitate, qui subiectivam opinionem pandiderunt. Iudici enim vero sciscitanti: "Creditisne vos, que la menace de Mme Massier d'expulser son fils de la maison, s'il n'épousait pas Mlle Gauthier, était sérieuse et qu'elle aurait pu amener son mari à l'exécuter? Savez-vous si Mr Jean était persuadé ou non, que cette aurait été exécutée en cas de refus au mariage?", omnes uno ore responderunt se hoc retinere: "Je suis persuadé... je le crois parfaitement... oui, je le crois." Ergo, unum certum hic habetur, scilicet testium omnium fuisse opinionem, qua Ioannis eiectio a patria domo, instante matre, et viro non resistente, retinebatur possibilis. Sed cum a posse ad esse non teneat illatio, factum testes non constituunt metui incutiendo satis aptum; vir enim, quantumvis debilis, patriae potestatis iura ita prosequitur, ut omnes uxoris artes et importunitates eluderei ne coram societate nota servi mulieris inureretur, hominis dignitatis oblitus; quae praesumptio destruitur per simplicem contrarii possibilitatem.

16. Nec contrarium evincitur ex facto allegatae donationis, quae sub mentito titulo recognitionis debiti a viro, suadente atque urgente uxore, facta dicitur favore Alphridi in fraudem et cum damno Ioannis: haec enim recognitio, coram publico Notario facta, retinetur vera quoad usque non probetur falsa. In novissima inquisitione, declaratio fuit producta, coram Parocho Ardisson emissa ab Alphrido Massier, et, eo a paralysi scribere impedito, ipsius Parochi manu exarata; qui conscientiae stimulis agitatus, ut suae satisfaceret obligationi, se dicit fraudis fuisse participem a patre commissae in fratris sui Ioannis praeiudicium sub uxoris imperio. Sed haec declaratio nullo omnino in pretio est habenda: facta enim post publicatam sententiam adversam, seu tempore suspecto, suspicionis nota non caret. Et revera, in prima iudicii sede, Ioannis patronus asseruit, se documenta allaturum, quibus probaretur, donationem hanc coram civili magistratu, iuris ordine servato, fuisse impetitam, sententiamque prodiisse, quae nullam et irritam eam declaravit. Haec erant documenta producenda, quae non fuerunt producta, quin iusta fuerit assignata omissionis causa; ratio enim allata, furoris bellici in Europa grassantis, apta non est omissioni adprobandae, quia qui plura requisivit et in actis deposuit documenta, bellicis conditionibus et

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impedimentis.

[*Latin ed. p. 335*]

Despite what the Roman Rota 335 may have forgotten, the Civil Tribunal could also have obtained and presented documents to support its asserted judgment, if the judgment it claimed actually had a valid basis. The lack of documents is not remedied by Alphridi's declaration, which itself suffers from defects. Firstly, it is an extrajudicial act, which cannot be considered in court; and secondly, it was written by the parish priest, Ardisson, although signed by Alphridi, who, as stated above, has an interest in the case, not only in form, but also in the substance of the declaration, which invalidates its authority. But even setting this aside, the donation, which is the object of the declaration, lacks sufficient justification to be admitted. Indeed, John entered into marriage with Germaine on March 10, 1900, and his conjugal life was interrupted only in December of 1902, when the woman, having left her husband, returned to her parents in Paris. The alleged donation was made on August 27, 1902, or during the intervening period, when Madame Massier, having fulfilled her vows, should not have been plotting against her son, but rather should have been bestowing benefits upon him as a sign of filial devotion. Therefore, the donation was not made in good faith, but must be returned for other reasons, and consequently, the declaration presented by Alphridi is rightly rejected as suspicious.

17. Furthermore, when the threat of being driven from the paternal home is attributed to the mother, without any regard for the husband, if the testimonies of witnesses were to be admitted in this matter, one would have to be retained for the reason of instilled fear, regarding the father's actions, which neither the plaintiff knew, nor considered. It is irrelevant to claim that this reason was not presented by the plaintiff because he was not questioned about it by the judge, or that he therefore excluded it; he did not present it in the petition sent to the Supreme Pontiff on April 11, 1913, but only stated that he feared being driven from the home and disinherited, without mentioning the father at all: "Either marry Miss Gauthier, or leave the house, and 'I was warned that my mother would disinherit me... or go somewhere else to lead a miserable life... then the fear of being disinherited.' 'I yielded to the threats of my parents, and on March 10, 1900, I married Miss Germaine Gauthier.'" Indeed, he affirms this before the judge, and assigns only one reason for the marriage: "To avoid being driven from the house and disinherited," according to his mother's threats. Therefore, there was no other person who instilled fear, other than the mother; and therefore, the father's intervention is not admitted. For the same reason, the intervention of the aunt is not admitted; and this is even more so because the aunt's actions are said to have occurred after the marriage, or after the separation of the couple, and for the purpose of John entering into a marital union with another woman: "My aunt and godmother, Madame V.

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Guirard-Massier, repeatedly tried to..."

[*Latin ed. p. 336*]

336 Acta Apostolicae Sedis - Commentarium Officiale "to bring back to my wife: I have always refused... my aunt died 'disinheriting' me." 18. As for the disinheritance, the extent and magnitude of the fortune of the lady Massier are not established by any document that should have been included in the records. The only evidence consists of the testimony of witnesses, who, when expressly questioned in the latest inquiry to prove the severity of the damage, and contrary to what was previously stated, claim that it amounted to ten million livres. However, this assertion, even considering the credibility of the witnesses, is based solely on appearances, or on the opinion of people who judged the family Massier's lifestyle as excessively luxurious: "They were considered very 'rich, by the way they lived.'" But it is well known that an outward appearance of luxury is not a certain indicator of the magnitude of a fortune, since it often happens that even the most substantial family estates are so burdened with debts that what remains is barely sufficient to support the family. And this is relevant in this case. Indeed, Lady Massier, fearing for the condition of the factory, stipulated that the dowry should be used to support her daughter, Germaine: "I forced my son to marry you because of your dowry, which was to revive the factory that we operated." This is also confirmed by the witness Danillon (Summary, p. 38 c.) and by Paul (Summary, p. 17 ad 6). Furthermore, the severity of the damage claimed does not arise from the testimony of the witnesses. To properly disinherit is to remove from the inheritance one who was, by law, designated as an heir, and the will is invalidated if the testator does not provide for at least the legitimate portion, or if he disinherits those to whom that legitimate portion is due. Since there were three children in this case, the legitimate portion assigned to each consisted of a quarter of the inheritance (Cod. Civ. Gaii., art. 913), which could only be taken away for reasons prescribed by law. Since these reasons were not present in this case, John could not have been properly disinherited, and therefore he could not have had any fear, let alone a serious one; not only was there no serious damage, but there was no damage whatsoever. Only a quarter of the inheritance remained, reserved by law for the free disposal of the parents, which, if it had been distributed among the three sons, John could have been deprived of only one-twelfth of it; this did not constitute a serious damage in this case. Therefore, the Very Reverend Fathers absolutely reject the fear. 19. However, the Very Reverend Fathers do not concede the gravity of the fear with regard to the person allegedly affected. John was 23 years old, a young man described as skilled in his art and of good reputation in society (Summary, p. 42, n. 2), and endowed

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with natural gifts (p. 14, Summary, alter.).

[*Latin ed. p. 337*]

337 The Roman Rota, No. 1, 1), and he who freely disposed of his person with some independence, certainly was not one whom, like a timid girl accustomed to living within domestic walls, the expulsion from the paternal home would greatly disturb; especially if it is considered that he had been threatened by a woman to whom he owed nothing, nor had any power to compel her. Therefore, the conditions for establishing a grave fear are lacking; for the evil that is feared is not imminent, nor is it likely to follow. Indeed, scarcely a year had elapsed since the mother's warning, when John, in order to escape his mother's vigilance and authority, abandoned the paternal home, not at all fearing the difficulties that would arise from it, being quite unfit to provide adequately for himself and his family: although he enjoyed the dowry of his wife, he was nevertheless burdened with heavier obligations because of it, and for his daughter. If he did not care to live with his family when it was more advantageous to him, nor could he dislike leaving the family when he could live more freely and comfortably alone; nor could he fear the injustice of being expelled, since he had publicly exposed his good reputation to scorn through adulterous loves.

20. Nor did he fear disinheritance. For Madame Massier, upon learning of the German woman's departure from her husband, urged her son to restore the conjugal union. "Madame Massier," said Barel, "after this departure, called me to go to Nice, and to persuade Mr. Jean to bring his wife back to resume their common life." But he refused to obey, even though his mother added that she would carry out her threats. "Mr. Jean replied to me: 'She has left: I will never make the slightest effort to bring her back...'" Following this refusal and Mr. Jean's response, "Madame Massier said to me: 'Since it is so, I will carry out all the threats that I have made to him.'" Therefore, he did not fear losing his inheritance, as the actor himself confesses: "My mother, understanding that the departure of my wife was caused by my lack of affection, made sharp reproaches to me, which had no effect on me..." Nor did he conceal from the German woman that he had done this in order not to abandon an immoral way of life: "When I asked her the reason for her behavior towards me, she replied to me: 'It is because I have loved, and I love, another woman, whom neither you nor the threats of my mother will make me abandon.'" And if John did not fear disinheritance when the matter concerned the restoration of conjugal life, nor should he be said to have feared it when the matter concerned entering into marriage; for in both cases, the cause of opposition was the same, the dishonorable love of another woman; and the same damage was threatened, the deprivation of the inheritance.

21. It is said that John hoped that he would not suffer punishment, be-

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cause it was not he who had abandoned his wife, but his wife who had left the conjugal bed.

[*Latin ed. p. 338*]

338 Acta Apostolicae Sedis - Commentarium Officiale serit. Sed hoc, potius quam clienti suo, vinculo favet. Enimvero actor fatetur se causam fuisse desertionis mulieris: "Ma femme a été pour moi pleine d'attentions affectueuses. Malgré toutes ces qualités je ne pouvais chasser de mon cœur, de mon esprit l'autre amour. Je témoignais à ma femme la plus grande indifférence et un manque total d'affection. Je lui avouais même que je ne l'aimais pas... car j'aimais une autre femme que rien ne pourra me faire oublier. Cet aveu fut une révélation. - Elle me quitta et alla habiter avec son père à Paris en décembre 1902." Si Germana discessit, ob viri culpam discessit. Et si Ioannes speravit, se poenam subiturum, tam gravi culpa sua non obstante, a fortiori se poenam subiturum non timuisset si matrimonium non acceptasset: in utroque enim casu mater praeoptatum finem non obtinuisset; sed in primo, praeter amaras sollicitudines, familiae dedecus accessisset. Nec hic est praetereundum, minae dominae Massier tribuendas potius esse vitio illius naturae ad iracundiam proclivis, eiusque educationis defectui, quibus officinae curae et difficultates adiungebuntur, quam serio voluntatis eius proposito. "Mme Massier, teste Danilion, est une très bonne personne; mais qui n'a pas reçu une très forte éducation. Elle a toujours souffert de l'estomac durant son mariage et les affaires commerciales lui ont donné beaucoup de soucis. C'est sous cette double influence que son caractère devint difficile et elle se laissait facilement aller à une première impression... C'est une femme qui ne réfléchissait pas et ne raisonnait pas ses premières impressions." Si quae igitur inter contentiones minae amatre fuerunt latae, hae filio assueto matrem iracundamaudire metum gravem non potuissent incutere; immo contemnendae prorsus ei debuissent apparere, et de facto apparuerunt: "Me fit de vifs reproches qui n'eurent sur moi aucun effect..." Quare audiendi non sunt testes, qui tanto cum verborum apparatu eam dicunt capacem minas exsequendi; bonitas enim eius, ab ipsis testibus commendata, exsequi non sinit quod sine reflexione et sub iracundia motu profertur. Facto 22. Nec contrarium evincitur ex quod domina Massier unum Alp hridum, filium primogenitum, haeredem instituit. Etenim, praescindendo etiam quod in hoc testamento sermo est tantum, non de haeredis institutione, sed de legato, de quo infra, hoc actum immerito prorsus retinetur veluti minarum exsecutio. Nam, primo, non unus Ioannes in hoc testamento fuit posthabitus, sed nec alter filius Iosephus fuit consideratus. Quare alia omnino huiusmodi testamentariae dispositionis ratio esse debuit, quae, seclusa vindicta, utrique fratri est communis. Et hanc rationem revera

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mater assignavit; cum enim Alphridus, prae ceteris fratri-

[*Latin ed. p. 339*]

The Roman Rota, in case 339, having considered the affairs of a family and a workshop, maintained that, above all others, it should also uphold what had been previously established; and to this end, the following provision was included in the will: "Wishing to acknowledge the devotion and selflessness with which my eldest son, Alfred Massier, has shown in the general interest of the family, by supporting me in the management and administration of our manufactory, and even by undertaking this heavy task alone, I bequeath to him, by pre-emption and outside of his share, one-quarter of all my assets."

However, the circumstance of the time when the will was drawn up excludes any notion of revenge; for it is recorded in the acts of the public notary that this occurred on December 17, 1901, when John, having obeyed his mother's wishes, was living a peaceful life with his wife, Germaine; for the marriage, which had been contracted on March 10, 1900, was not dissolved until December of 1902. Therefore, there was no reason then to take revenge; on the contrary, there was every reason to reward the son, who, having followed his mother's advice, had provided useful assistance in alleviating her anxieties, and who had advised the family and the workshop in their difficulties.

23. Finally, in this will, the lady Massier disposed of one-quarter of her assets in favor of Alfred, reserving the legitimate portion for all her children, so that this would not cause any harm to John, although, as witnesses testify, one-quarter was indeed a very large portion. Indeed, if the mother had truly said to her son that she would deprive him of one-quarter of the assets as punishment for the marriage not being consummated, the evil would not have arisen from a punishment, but from a loss; for it would be a matter of a portion, which was reserved for the free disposal of the mother, who could assign it to anyone, even to strangers, and therefore would not cause any harm to the children, whose rights would not be violated by this.

It is not relevant for the patron to say that the children have a right by natural law to the entire estate of their parents, from which they cannot be unjustly deprived; for this is conceded if the parents die intestate, but not if they draw up a will, in accordance with the provisions of civil law, which regulates and explains natural law. Therefore, in this case, John did not suffer any harm, but lost a profit.

Indeed, marriages should be free from any penalty of loss, not from a penalty of loss of profit, according to L. 70, § 1, de cond. et demonstr., as Panormitano states in cap. Gemma, n. 1, de sponsal., and Barbosa, Vot. decis. 127, n. 15, where it is said: "Therefore, a penalty, which consists in the loss of profit, imposed on someone to induce him to enter into marriage with a certain person, does not prevent or invalidate that marriage, even

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though it is said that he fears the loss of profit that has been contracted."

Therefore, given that one-quarter of the inheritance was truly a large sum from the mother, the risk of losing it due to threats, when John had no claim to it, was a fear that...

[*Latin ed. p. 340*]

340 Acta Apostolicae Sedis ~ Commentarium Officiale: "One cannot clothe a man who is falling." Regarding the case of Sánchez, *De Matrim.*, Book IV, disputation 5, number 2, and Pontius, *De Matrim.*, Book IV, chapter 5, number 10: "Furthermore, it must be said that the fear of losing profit or wealth, or a benefit that one hopes to receive from someone to whom one has no right, does not cause a constant man to fall; rather, the best reason is that it is not so much a cause of terror or obligation, as it is an invitation by the hope of gain; but hope and desire, as Saint Thomas says, do not diminish but rather increase the will."

24. Therefore, fear, if truly felt, cannot be said to be unjust. Indeed, on the one hand, John had no right to one-quarter of his mother's inheritance, and therefore he could be deprived of it without injustice; and on the other hand, there were sufficient reasons for the parents to freely dispose of it, without any regard for John; especially considering the danger, given his dishonest and lascivious life, that he would squander it with prostitutes! Therefore, the mother was justified in commanding this deprivation, and no injustice arose from it that would give rise to fear. As for the expulsion from the paternal home, the reason must be considered in light of the command. Saint Thomas says: "Since marriage is a kind of perpetual servitude, the father cannot compel a son to marry by command, when he is of free condition; but he can compel him for a reasonable cause; and then, just as the son is related to that cause, so he is related to the father's command; so that if the cause compels by necessity or honor, the father's command likewise compels, otherwise not" (*Summa Theologica*, Supplement, part 3, question 4). The honor of the family, and the spiritual and material well-being of John himself, suggested to the mother that she should urge marriage; and these motives, when compelling by necessity or honor, compelled the mother's command without injustice.

25. Therefore, the fear, in the hypothesis that it was truly felt, did not possess the qualities prescribed by law, and therefore, for the effect in the case, the Lord did not admit it. This should not be surprising. Betrothal precedes marriage by almost six months; during this time, Germana had no suspicion of a lack of love on the part of her husband, which she might not have had if, having left the paternal home, they had lived in Nice, and if quarrels had arisen between them, but John had not first revealed this to her: "I told her that I did not love her, and that if I had married her, it was only under duress and forced by my family, because I loved another woman. This confession was a revelation to my wife." Which Germana confirms,

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when questioned by a judge: "Did he declare to you before the marriage that he did not want to marry you?" She replied: "No." For, from commonly occurring circumstances, things are often estimated...

[*Latin ed. p. 341*]

The Roman Rota, in case 341, holds that, with all due consideration, everything proceeded rightly and justly between the parties throughout the entire period of betrothal, with mutual affection being shown as is fitting for betrothed persons. The contrary is not credible; for there is no firm argument to support it on either side, and furthermore, the simulation of affection for such a long time is not possible in one who, devoted to another woman, is unwillingly subjected to the authority of his mother, without at least sometimes revealing his angry feelings.

26. Hence it is explained why, in the actual celebration of the marriage, nothing extraordinary occurred, but the marriage was begun as is commonly done: "At the moment of the marriage," says Germana, "I had no reason to doubt (of true consent)... I could not then suspect anything at all." John, indeed, affirms that he had a contrary intention when expressing his consent to the marriage; but he adds that he did so unwillingly: "I was not happy to say yes, while thinking no, and although with regret." But nothing is deduced from this: for these words are best explained in such a way that true consent is not excluded. For John perceived that the woman was not the one he desired; therefore, when he did not wish to marry Germana, and when he could not have the woman he loved as his wife, he took Germana, with his mind somewhat divided between the two. Therefore, in this case, true consent was not lacking, which, considering John's state of mind, was truly and simply voluntary, although it may be said to be involuntary in a certain sense, just as one, when a storm is imminent, throws himself into the sea purely and simply to save his life, not that he would throw himself in if there were no danger to his life: and this is all the more to be considered, because John, as he himself admits, bore with difficulty the exclusion, not fully accepting it: "... while thinking no, and although with regret." Elsewhere, in the external forum, acts are considered valid as long as they are not proven to be invalid, according to the saying, "It is presumed that what was done was done rightly, because it was right to do it."

27. Hence it is also explained why the marriage was valid, since John and Germana properly established a common life together, living under the same roof and in the same bed; and for fifteen months they lived together peacefully within the domestic walls, as husband and wife. This is indeed affirmed by John: "I fulfilled my duty in every respect. We lived together for about fifteen months." This is also confirmed by Germana: "From our marriage, he behaved like a true husband; after the conception of the child, there were no other conjugal relations... For fifteen months, my husband was very proper towards me..." Indeed, it is true that John maintained

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before God the bonds of marriage, so that when, after the separation, his aunt wished to urge him to take another wife, he did not hesitate to respond that his religion did not permit it; and although a divorce was decreed by the civil authorities, he also followed the decree of his mother.

[*Latin ed. p. 342*]

Acts of the Apostolic See - Official Commentary 342, having refrained from requesting a declaration of nullity of the marriage. He requested that such a declaration be granted to him, with the addition of circumstances that engendered serious suspicion. Indeed, the words of John are: "On May 11, 1907, Doctor Golignon died; therefore, Madame Colignon is 'free, after having respected her mourning and her pain, and having led an exemplary life in Vallauris, and only after my curate, I confessed my love to Madame Golignon, who, touched by my perseverance, my fidelity to her memory, was touched by my love and consented to allow me to tell her, and I was happy on the day that I heard from her lips the acknowledgment that she loved me: but that she wanted me to have my marriage annulled... therefore, we (thought) of initiating the cause, wanting to be a united household, believing that we had suffered enough to deserve this awaited happiness." He concludes not obscurely that the marriage between them was, in any case, to be celebrated once the question was resolved; for he said: "Our faith is intangible; our conscience is clear; we are certain: but human forces have limits." This, as previously stated, the Parish Priest Ardisson openly explained.

28. Having considered all of these things in law and in fact, invoking the name of Christ, We, the undersigned Auditors, sitting for the Tribunal, and having only God before our eyes, declare, pronounce, and definitively sentence, answering the proposed question: affirmatively with regard to the first part, and negatively with regard to the second part: that is to say, that the sentence of March 25, 1915, is to be confirmed, and We also decree that the plaintiff, John Massier, shall be held liable for all the expenses of the judgment, whether of the first or second instance. Thus we pronounce, ordering the Ordinaries of the places and the ministers of the Tribunals, to whom it pertains, to enforce this our sentence, and against those who resist, to proceed according to the Sacred Canons, and especially session XXV, chapter 3, de ref., of the Council of Trent, using the executive and coercive means that they shall judge to be more opportune and effective for the circumstances.

Rome, in the seat of the Tribunal of the Holy Roman Rota, on December 30, 1915.

Peter Rossetti, President.

Joseph Mori.

Raphael Chimenti.

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L. j$j S.
From the Chancery, January 19, 1916.
Sac. T. Tani, Notary.

[*Latin ed. p. 343*]

In the Roman Rota, Case No. 343, Volume II, Bergamo. Under the blessed reign of Pope Benedict XV, in the second year of His Pontificate, on the 10th of April, 1916, the Most Reverend Fathers Aloysius Sincero, Ponens, Joseph Mori, and Frederick Cattani, Auditors of Tournon, in the case of Bergamo – Solutionis, delivered the following final judgment.

In the year 1895, in the town of Almenno S. Salvatore, in the diocese of Bergamo, a certain society was established, namely a "Società cooperativa in accomandita 'per azioni a capitale limitato'," in which several priests were members, known as "accomandatarii," and who, therefore, were bound without limitation and jointly to the social obligations (Code of Commerce, article 76, paragraph 2, etc.). However, in a short time, the society consumed not only its entire social capital, previously established at 30,000 shares, and later at 160,000 shares, but also incurred a large debt. Therefore, before the predetermined time, on April 6, 1904, it was decided that the society should be dissolved. From the final accounting conducted by the liquidators, it was determined that the society's debt was 225,885.85 shares.

On December 27, 1911, Father Francis Gossali, a member, addressed the Court of Bergamo, stating that the social debt should be divided among the ten members, and that the member Teanini had assumed the debt of two other members, and that he himself had paid almost the entire social debt in order to avoid greater damages, reserving the right of recourse, commonly called "rivalsa," against the member John Benigna for 22,596.35 shares, and against the member Canova Policarpo for 14,008.55 shares, along with the interest due. Regarding the other members, we need not consider them.

Benigna raised the exception of prescription according to article 919 of the Code of Commerce, which states: "The shares arising from the contract of society or from the social operations are prescribed by the lapse of five years." Canova, however, did not raise the exception of prescription.

Therefore, the Court of Bergamo, having delivered its judgment,

[*Latin ed. p. 344*]

344 Acta Apostolicae Sedis - The Official Commentary of September 23, 1913, pronounced that the debt of the Priest Benigna had been duly prescribed, according to the aforementioned article of the Code of Canon Law. However, the priest Canova was considered "legally responsible for the male debt," which "may have remained with the present cooperative society of Almenno S. Salvatore after its legal liquidation," but the petition of

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the plaintiff was rejected "regarding the right to reimbursement of the sum indicated in the document of December 27, 1911," because the plaintiff "did not sufficiently prove his claim for reimbursement of the sum indicated in his document... against the defendant, Father Canova Policarpo: indeed, it was ascertained (in court, specifically through an expert opinion regarding the plaintiff's claim) that for several of the creditors, "there is no proof whatsoever of the payment made to settle their presumed debt." Regarding this judgment, concerning what it decided regarding the debt of Father Benigna, Father Cossali appealed, and now the case comes before us, with the question to be determined, agreed upon by both parties: Whether Father Benigna is obligated to pay the sum of 22,596.36 in favor of Canon Francis Cossali. The plaintiff's counsel first pointed out that the judgment of the Court of Bergamo did not admit the statute of limitations against Father Canova, who was the other defendant in the lawsuit brought by Canon Cossali, but it did admit the statute of limitations in favor of the priest Benigna. However, the arguments used by the aforementioned judgment to deny the statute of limitations for Father Canova are the same that could be used against Father Benigna. But this argument is invalid; for the statute of limitations signifies an exception (L. 91, at the end of De Solutionibus), and the judge cannot, ex officio, supplement a statute of limitations that has not been raised (Civil Code 2109). The counsel for Father Benigna argues primarily as follows: either the plaintiff is bringing the action as a useful manager of the affairs of Father Benigna, or as one who has subrogated himself to the society's credit, which is asserted to belong to the same against the unlimitedly liable co-partners for the society's funds. In the first case, it is permissible for us to request that the opposing party demonstrate that he has actually acted as a useful manager of Father Benigna's affairs, no more than our client should have actually paid. In the second case, we can oppose to the opposing party all the exceptions that could be opposed to the society itself, because he is bringing the same action against Father Benigna that the society itself could have brought. But this argument is also flawed. For, as Gianturco observes (Institute of Civil Law, page 160): "The jointly liable debtor who has paid the entire debt has against each 'co-debtor' an action of mandate to demand his share; and not 'the action of surrogating the rights of the satisfied creditor, for the..."

[*Latin ed. p. 345*]

S. Romana Rota 345 i « which could require a solid payment, and would, with a waste of 'expenses,' create a profitable circuit of shares." Verius, in *Inst. dir. civ. Pacifici-Mazzoni*, (vol. IV, p. 103): "The 'many disputes that arose in common law to determine whether the action of recourse was *actio pro socio*, or *actio mandati*, or a useful *actio negotiorum gestorum*, or an action *de in rem verso*, or an action derived from the fictitious cession of the action by the creditor, have lost all reason for being,

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as our law no longer admits any formalism in the name of the action and in the way of exercising it in court.'" Therefore, if Canova acted definitively according to the law of cession, there is no doubt that his action would be barred by the statute of five years (Vivante, *Tratt. dir. comm.*, n. 2226, b; Vidari, *Oors. dir. comm.*, I I, n. 1221 et seqq.): but the action of Sac. Cossali, as he rightly established it in his treatise, is neither an action of mandate, nor an action *pro socio*, nor an action *negotiorum gestorum*, nor an action according to the law of cession, but simply and purely an action of recourse, which is an action granted to the debtor who has paid the solid amount, and because he has paid the solid amount. Therefore, the question of when the action of recourse will be barred in this case is a crucial one, on which the entire cause turns: a matter that neither the appealed judgment nor the advocates of the parties seem to have understood. In resolving this question, the following must be observed, both with regard to the solid obligation and with regard to the prescription of the action of recourse in this case. a) An obligation is called solid, as D'Annibale teaches in II, 329, when the thing itself admits of division, but it is stipulated by pact or testament (I say openly) that it can be claimed in full by all creditors, or that it must be paid by all debtors. According to the *NN. LL.*, they are considered as partners (which, however, must be understood according to what we said above) and as mutuality procurators: and I want it to be understood that each of them can demand the solid amount, and each of them can pay the solid amount. In short, the collection or payment by one extinguishes the right and obligation of all: but if one receives with the others, what he pays, he can recover from the others, deducting his own share. In this case, we are dealing with a passive solid obligation, of which the civil code, art. 1198, states: "The obligation contracted in solidum towards the creditor is divided by law among the debtors: these are not bound among themselves, except each for his own part." For, "once the common creditor has been paid," says Venzi, *loc. cit.*, "or his claim has been tacitly waived, the solid obligation ceases, and there can be no doubt about this. The relationships between the co-debtors remain: with respect to these, the law itself..."

[*Latin ed. p. 346*]

346 Acta Apostolicae Sedis - Commentarium Officiale declares that once the reason for the exception ceases, the "general principle" is again applied, according to which "joint obligations are divided among the debtors, concurring in parts." And Vivante (Institutiones Diritto Commerciale, page 191) states: "Once the joint obligation has been fulfilled, the reason for any rigor ceases, and therefore the common right also applies, according to which he who paid the entire debt can demand from the co-debtors, even if they are partners, their respective portions, so that "each one ends up paying only the part that belongs to him."

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b) The solidary debtor, who has paid the debt in full, has a right of recourse against the other partners with regard to the portion owed by them; argument from the Civil Code, article 1199: "The co-debtor in solidum who has paid the entire debt cannot recover from the other co-debtors the portion of each of them."

c) Regarding the question of whether the ordinary commercial prescription of 10 years or the special prescription of 5 years in matters of partnership applies in this case, the statutes in the cited article 919, number 1, state, according to a more recent and accurate opinion, that the right of recourse in this case expires after 5 years. Pugliese states (La Prescrizione, II, n. 843): "Since the prescription applies only to the internal relations of the company, but at the same time affects all these relations, it logically follows that it encompasses... all the rights of the individual partner as such against the company and against the other partners... the eventual actions of the partners among themselves, so that if one has paid, by virtue of joint responsibility, the company debt, the action of recourse expires within the shorter term of article 919." Vivante also teaches this (Tratti di Diritto Commerciale, vol. IV, pages 823-824). It is important to note these words: "If one has paid, by virtue of joint responsibility, the company debt"; for this reason, the right of recourse takes on a social nature, because it is an effect of joint responsibility. Therefore, undoubtedly, the ordinary prescription of 10 years would apply in this case, if, after the dissolution of the company, there had been between the partners that particular agreement, which the plaintiff insinuates in his pleadings; then, indeed, Cossali would have paid the debt not by virtue of his joint responsibility, but rather by virtue of this agreement. Hence, Ponens ordered that the existence and conditions of this asserted agreement be investigated; but in vain, for the plaintiff's lawyer, for whom it was of the utmost importance to demonstrate this agreement, does not even seem to have understood the meaning of this question.

Furthermore, in general terms, Abello (Il regresso nella solidità passiva, "Rivista italiana di scienze giuridiche," vol. XXXIIII, pages 178, 180) and Venzi (cited, pages 103 et seqq.) excellently explain what effect an express or tacit agreement of the partners has in a joint obligation.

[*Latin ed. p. 347*]

S. Romana Rota 347 d) Whatever we have discussed holds true, provided that attention is given only to the positive provisions of civil or commercial law. However, with regard to the ecclesiastical forum, and with regard to the forum of conscience, it must be noted: 1° Although, according to civil law, good faith is not required in usucaption [acquisition of property by prescription], Gianturco (cited, page 356) states that, according to canon law (Bucceroni, *Theologia Moralis*, I, n. 925; D'Annibale, II, n. 140 and 152), at least canonical or theological good faith is required, because "whatever is not of faith is sin" (Council of Trent, Session V, Decree on Justifi-

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cation, Chapter 20; Code of Canon Law, Canon 5). Indeed, it is scarcely conceivable, or perhaps not at all, that good faith existed in the priest in question, because he had been warned about the debt to be paid, and it was not permissible for him to ignore the laws by which he was bound in solidum [jointly and severally] to the debt. 2° Furthermore, the positive law in usucaption does not abolish the natural obligation (D'Annibale, cited, n. 152, note 10), or the obligation of conscience (Pothier, Giorgi, Borsari, cited by Polacco, *Le Obbligazioni*, pages 104, 112, 113). And Polacco himself (page 135), with regard to a prescribed debt, says: "There is a preestablished term, which, for a reason that is merely a creation of positive law in the social interest (that is, to avoid eternal disputes), can no longer produce the civil effect of the action, but meanwhile, the principle of justice of giving to each his own is lost." e) Moreover, even if the right of recourse [claim for reimbursement] is applicable in the case, according to the positive commercial law, Article 919, the five-year prescription does not run from the deliberation of the assembly, on April 6, 1904, or from the day on which the resolution of the company took effect against third parties, as the appellate judgment held, but from the day on which the social debts were paid by Mr. Gossali; and this is certain, because the action of recourse has its cause in the payment of the solid debt, and the action itself is not subject to prescription. It is a "certain principle that the action begins to prescribe when the possibility of exercising it begins" (Vivante, cited, page 820). And Abello (cited, page 170): "The action of recourse cannot, in fact, be exercised except after the payment has been made, which is the only act that, by extinguishing the obligation for all co-debtors, is carried out in the common interest." Therefore, in order to judge whether the time for prescription of the right of recourse had been completed or not on December 27, 1911, it must be determined at what time Mr. Gossali paid the solid or individual social debts: whether, that is, within the time allowed to the social creditors against the guarantor partners, and within five years prior to December 27, 1911. The plaintiff's lawyer overlooked this, because, as if arguing against his own client, he adhered to the interlocutory judgment of the Court of Bergamo, which had established the date from which the five-year prescription began.

[*Latin ed. p. 348*]

348 Acta Apostolicae Sedis - Official Commentary on the case. The interlocutory judgment of the Bergomensis court presents no obstacle. For the matter does not become judged, as the patron of the plaintiff believes. Indeed, as the judgment of the court states, the plaintiff, having accepted the judgment, appealed to the Metropolitan Court of Sac. Benigna, and, as can be inferred from the judgment itself, it was not the Metropolitan Court, but the judge in the subsequent appeal who declared: "This tribunal, by decree of January 20, 1913, rejected the aforementioned 'appeal'." 2°

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It is true that "for obligations arising from the liquidation, the five years run from the approval of the final balance sheet," but in our case, we are dealing with a right of recourse, and in this case, the five-year prescription undoubtedly runs from the date of the payment. o f) However, in order for the plaintiff to be able to pursue a claim for recourse, he must prove that he has paid the social contributions (Crome, Teoria fondamentale oblig., § 19, p. 234; Abello, cited, p. 179) and, most importantly, in order to be able to demand the definite sum of 22,596.36 lire from Sac. Benigna, he must demonstrate that he has paid the entire social debt within the relevant period, as stated above. Indeed, the plaintiff himself, in his petition, stated that "he bore almost the entire burden." 2° The plaintiff's patron, although having agreed on a definite sum in principle, nevertheless concluded in his initial writing that the sum owed to Canon Cossali should be determined in a separate proceeding. 3° Nor did he subsequently prove that Canon Cossali had paid the entire sum. For, from the expert opinion presented in the first instance, it appears that only certain debts were actually paid. If the plaintiff's patron argues that not all documents were available to the experts, it was his duty to invoke a different expert opinion, or otherwise to demonstrate that all social contributions, and indeed within the relevant period, had been paid by Canon Cossali. o Therefore, since from the acts and documents presented up to now, the plaintiff has not proven his right to the definite sum of 22,596.36 lire, which he requests by right of recourse from Sac. Benigna, in response to the question: "Is the priest John Benigna obligated to pay 22,596.36 lire in favor of Canon Francis Cossali?", the answer is negative, inasmuch as from the acts and documents presented up to now, it has not been demonstrated that the priest Benigna is obligated to pay the definite sum of 22,596.36 lire in favor of Canon Francis Cossali. Therefore, having considered all these matters carefully and diligently, We, the undersigned Auditors, sitting for the Tribunal, and with only God before our eyes, invoking the name of Christ, in response to the question posed, we answer negatively, that is, that the priest Benigna is not obligated to pay 22,596.36 lire in favor of Canon Francis Cossali, and that the plaintiff is to be condemned in costs.

[*Latin ed. p. 349*]

349 Saint Montana Bota Itapronunciamus, commanding the Ordinaries of the places and the ministers of the tribunals, to whom it pertains, that they enforce this our definitive sentence, and that they proceed against those who resist, according to the norms of the sacred canons, and especially chapter 3, session 25, concerning Reforms, of the Council of Trent, using the means of enforcement that are more effective and appropriate for the circumstances. In Rome, at the seat of the Tribunal of the Sacred Roman Rota, on the 10th of April, 1916. L. Aloysius Sincero, Presiding. Joseph Mori. Frederick Cattani Amadori. From the Chancery, on the 27th of May,

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1916. Rev. T. Tani, Notary. III. Edictal Citation FOROIULIEN. NULLITY OF MARRIAGE (DE BLONAY - DE MELENIEWSKA). Since it is ascertained that the woman concerned, Mary De Meleniewska, of the place of Narawska in ReuÃ, cannot be found, the undersigned Dean of the Sacred Roman Rota, presiding in this cause, by the present edict, peremptorily summons the aforementioned Mary De Meleniewska to appear, either in person or through a procurator, at the seat of the Sacred Tribunal on the 9th of December, at the eleventh hour, in order that the following question may be answered, and also the date is set for the Rota hearing concerning the aforementioned matter; furthermore, it is declared that, if she does not appear, the process will proceed and be completed in her contumacy. QUESTION: Does it appear that there is a nullity of the marriage in this case? The Ordinaries of the places and all faithful persons to whom knowledge is of the place of residence of the aforementioned Mary De Meleniewska are to take care that it may be possible to inform her of this edictal citation. Given in Rome, on the 2nd of August, 1916. G. L. ©. Rev. Ioannes Ladelci, Notary of the Sacred Roman Rota. Sebastianeiii, Dean, Presiding.

[*Latin ed. p. 350*]

Acts of the Apostolic See - Official Commentary 350. Translation. TRIBUNAL OF THE HOLY ROTE. Citation by ROMAN Edict, FOROJULIEN. NULLITY OF MARRIAGE (DE BLONAY - DE MELENIEWSKA). Since it has been ascertained that the aforementioned lady, Mary De Meleniewska, from the country of Narawoska in Reu, cannot be found, the Dean of the Rote, undersigned, presiding in this cause, peremptorily cites, by this present edict, even Mary De Meleniewska, to appear, personally or by a legitimately constituted procurator, at the seat of the Tribunal of the Holy Rote in Rome, on the coming 9th of December, at eleven o'clock, in order to express her opinion regarding the doubt reported below, and to set the date for the presentation of the cause before the Rote, further declaring that, if she does not appear, the canonical process will be continued and concluded in her absence. DOUBT: Is there evidence of the nullity of the marriage in the present case? The Ordinary of the place and the faithful who may have knowledge of the residence of the aforementioned Mary De Meleniewska, must, as far as possible, ensure that she is informed of this citation. G. Sebastianeiii, Dean, Presiding. L. © From the Chancery, on the 2nd of August, 1916. Ioannes Ladelei, Notary of the Holy Rote. In the title of the Cause, Claramontana - Restitutionis, fascicle 7 (July 7, 1916), page 232, the name of the Reverend Father Aloysius Carabini, Procurator of the Congregation of Sisters of St. Joseph of the Good Shepherd, was omitted. Rome, from the Chancery of the Holy Rote, on the 12th of August, 1916.

[*Latin ed. p. 351*]

Diary of the Roman Curia 351. DIARY OF THE ROMAN CURIA.

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SECRETARY OF STATE. By Apostolic Brief, the Holy Father has deigned to appoint: Domestic Prelates of His Holiness: May 8, 1916. — Monsignor Guglielmo Lorenzo Penny, of the archdiocese of New York. — Monsignor Giacomo Walsh Power, of the same archdiocese. May 9. — Monsignor Edwiao Maria Sweeney, of the same archdiocese. May 10. — Monsignor Giovanni Patrizio Ghidwick, of the same archdiocese. August 2. — Monsignor Giacomo T. Walsh, of the diocese of Kansas City (Missouri). — Monsignor Michele J. O'Reilly, of the same diocese. August 3. — Monsignor Sallustiano Gomez Riaño, of the archdiocese of Bogota. HONORS. By Apostolic Brief, the Holy Father has deigned to bestow the following honors: The Order of Saint Gregory the Great, civil class: April 27, 1916. — To Mr. Giuseppe Francesco Daly, of the archdiocese of New York. May 1. — To Mr. Clarence Hungerford Mackay, of the same archdiocese. August 11. — To Mr. Tommaso Edoardo de Sampayo, of the archdiocese of Colombo. The Knighthood of the Order of Saint Gregory the Great, civil class: May 4, 1916. — To Mr. Vittorio Giacomo Dowling, of the archdiocese of New York. May 5. — To Mr. Giovanni Giraud Agar, of the same archdiocese. — To Mr. Guglielmo Bourke Cockran, of the same archdiocese. May 7. — To Mr. Michele Giuseppe Mulqueen, of the same archdiocese. — To Mr. Myles Tierney, of the same archdiocese. August 18. — To Mr. Ernesto Calligari, lawyer, of the archdiocese of Genoa. — To Mr. Paolo Weingaertner, of the diocese of Würzburg.

[*Latin ed. p. 352*]

352 Acta Apostolicae Sedis - Commentarium Officiale

The Grand Cross of the Order of St. Sylvester, Pope: August 10, 1916. – To His Excellency, the Most Noble Count Maggiorino Capello, Extraordinary Envoy and Minister Plenipotentiary of the Prince of Monaco to the Holy See.

The Commendatorship of the Order of St. Sylvester, Pope: August 10, 1916. – To Mr. Enrico Bourée, Aide-de-Camp of His Serene Highness, the Prince of Monaco.

The Knighthood of the Order of St. Sylvester, Pope: August 3, 1916. – To Mr. Giovanni Celasco, of the diocese of Tortona.

THE HOUSEHOLD OF HIS HOLINESS

BY PAPAL BULL

With the letters of His Eminence, the Reverend Monsignor, the Holy Father deigned to appoint:

Extraordinary Secret Chamberlains to His Holiness:

August 3, 1916. – Monsignor Luigi Grilli, of the diocese of Lugo.

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August 10. – Monsignor Eliseo Maia, of the diocese of Biel.

August 10. – Monsignor Luigi Testi, of the diocese of Sarsina.

August 10. – Monsignor Pietro de Arruola y Basabe, of the diocese of Vittoria.

August 23. – Monsignor Achille Corneo, official of the Holy Congregation Consistorial.

Honorary Chamberlains in purple vestments to His Holiness:

July 6, 1916. – Monsignor Alvaro Naranjo, of the diocese of Ierichus (Colombia).

July 27. – Monsignor Uberto Flecken, of the archdiocese of Koln.

August 23. – Monsignor Cesare Lenzi, of the diocese of S. Miniato.

Extraordinary Honorary Chamberlains with Sword and Cape to His Holiness:

August 10, 1916. – Mr. Cav. Giuseppe Del Chiaro, of Rome.

August 12. – Mr. Massimo Gerard, of the diocese of Teneriffa.

NECROLOGY

July 27, 1916. – Monsignor Enrico Doulcet, titular Archbishop of Dioclea.

[*Latin ed. p. 353*]

Year VIII • Vol. VIII No. 10, October 5, 1916

ACTA APOSTOLICAE SEDIS

OFFICIAL COMMENTARY

ACTS OF POPE BENEDICT XV

A LETTER FROM THE PREBENDS OF SAINT CELSUS, TO THE CANONICAL CHAPTER OF SAINT JOHN THE APOSTLE OF THE FLORENTINES, IN THE CITY OF FLORENCE, AND TO THE CLERGY OF SAINT JULIAN THE ELDER, RESERVED FOR THE FLORENTINE NATION.

POPE BENEDICT XV

For the perpetual memory of this matter.

Whereas, it seemed entirely necessary, due to the great growth of the city, to more suitably and safely promote the salvation of souls, Our Predecessor, Pope Pius X, with provident foresight, undertook to establish new ecclesiastical buildings in the most recent areas of the city, and to more appropriately circumscribe the boundaries of some of the older

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parishes. Moved by this plan, the same Predecessor, through Apostolic Letters entitled "Susceptum, Deo inspirante," dated September 9th, 1916, transferred the Order of Canons and the Parish of Saints Celsus and Julian to the church of Saint John, of the Florentine nation, abolishing the parish which had already been established there, and attributing its revenues to the new parish, which he wished to establish at Santa Maria degli Angeli in Thermis, as was decreed by the same Apostolic Letters. It is sufficiently known that this fortunate undertaking has been successfully carried out through almost ten years of experience; for the Archsodalitas of Pietà of Saint John of the Florentines not only readily received the Archpriest, the Parish Priest, and the Canons of Saints Celsus and Julian, but also showed itself to be equally and benevolently disposed in mutual affairs, and together...

[*Latin ed. p. 354*]

354 Acta Apostolicae Sedis - Official Commentary: Having clearly demonstrated that the Chapter and the Curia are best situated within the same temple, and having been wonderfully delighted by this, We do not wish the Archisodality, as We have mentioned, to lack any sign of Our paternal charity, which, indeed, will serve as a reward for its merits, and which will also strengthen its connection with the Chapter and the Curia, to the mutual benefit of both. Therefore, trusting greatly that Our proposal will meet with the favorable response of those concerned, We reserve for the clergy of the ancient Florentine State the canonical prebends of Saints Celsus and Julian, as was the case in the year 1530, always reserving to Ourselves and Our Successors the right freely to grant either of these prebends to any priest who may be lawfully admitted to the Archisodality of Saint John of Florence, or to the Brotherhood of Charity. In order that no doubt may arise, and that no one may rashly claim a right that is not Ours, We declare distinctly and individually that, with regard to the matter under consideration, those who belong to the ancient Florentine State are those who were born within it, or who were born of a father, or at least of a grandfather, who were born in the provinces, as they are now defined, of Florence, Arezzo, Pisa, and Leghorn (except for the island of Elba), and in the territories of Colle and Montepulciano (commonly known as Colle Val d'Elsa and Montepulciano) of the province of Siena, as well as in the territories of Pescia, Barga, and Pietrasanta of the province of Lugo. Furthermore, We decree that, when the prebends of Saints Celsus and Julian become vacant, the first one to become vacant shall be granted in the manner We have stated. We desire that Our concession endure as long as the Order of Canons of Saints Celsus and Julian exercises its ministry in the same temple of Saint John, and that it cease entirely if, for any reason, the same Chapter is transferred to another location, all contrary things notwithstanding. Given at Rome, at Saint Peter's, under the Fisherman's

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ring, on the tenth day of the month of August, in the year 1916, in the second year of Our pontificate. P. CARD. GASPARRI, Secretary of State.

[*Latin ed. p. 355*]

Acts of Saint Benedict, Volume XV, page 355. LETTERS: "TO THE REVEREND FATHER FELIX, AT ROSQUE, CUBA." 1. "TO THE ARCHBISHOP AMBROSE, TO THE BISHOPS OF THE DIOCESES, CONCERNING SAINT JAMES OF CUBA, TO BE VENERATED BY THE POPULAR FAITH." Venerable Brothers, greetings and the apostolic blessing. – Venerable Brother Titus, Archbishop *in partibus* of Lacedaemonia, Our Legate with you, has recently informed Us of the Decree by which, heeding your prayers, We have declared the Most Blessed Virgin Mary, Mother of God, patroness of this Republic, a decision which has been so eagerly awaited and welcomed by your people, that the matter has been immediately discussed by all, and has brought joy to the hearts of all. It is pleasing to Us, venerable Brothers, that this, together with the expression of gratitude towards Us, is a testimony of Christian piety and faith, and that it raises the hope that, through your encouragement and example, and that of the rest of the clergy of Cuba, the ancient religion may take root so deeply in the hearts of these people, and may flourish so abundantly in the praises of Christian life, that We may rejoice with you in all the good that will come to you along with it. May this hope, which We share with you, be brought to fruition through the aid of divine grace, through your care and your labors. We gladly bestow upon you all, venerable Brothers, upon the clergy and upon the people, Our paternal and apostolic blessing, as a sign of Our benevolence. Given at Rome, near Saint Peter's, on the twenty-first day of August, in the year 1916, in the second year of Our Pontificate. BENEDICT XV. 2. TO THE REVEREND FATHER LUDWIG RATZER, PROVINCIAL, TO CONGRATULATE HIM ON HIS ELECTION AND TO EXPRESS THE WISHES OF THE ORDER. Beloved Son, greetings and the apostolic blessing. – We are pleased to learn that you have been elected to the highest office in the Order, and that the elections have been conducted in such a way as to promote the charity of the fraternity.

[*Latin ed. p. 356*]

Acts of the Apostolic See - Official Commentary 356, may it confirm your intentions. For it is fitting that you should excel in the office conferred upon you, and may you never lack the best will to honor the dignity entrusted to you. This is evidence that you can confidently take the helm, since that governance can only be fruitful if those who are subject to it rejoice, and they rejoice so much that they seem to offer their heartfelt support to the common goals and endeavors of religious perfection. Indeed, this was announced in a letter which you gave to Us, along with the members who were with you at the assembly, and as We are pleased to con-

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gratulate you, so We pray, "May God confirm what He has begun in you, and may your ministry be so blessed, that those who have benefited from the wisdom and piety of your predecessor, most beloved to Us in Christ, Hyacinth Cormier, may be led to greater virtue through your diligence and prudence." With these wishes and this hope, We impart to you, our beloved Son, whom We hope to see soon, and before all, to the entire Dominican Order, Our apostolic blessing, a pledge of Our benevolence, with all Our heart, in the Lord. Given in Rome, at St. Peter's, on the twentieth day of August, in the year 1916, in the second year of Our pontificate. BENEDICT XV. TO THE BLESSED COLONESE, WHO RECENTLY, TOGETHER WITH OTHER PRESBYTERS, GATHERED THE CARDINAL OF FULDA, THE ARCHBISHOPS HARTMANN, AND THE BISHOPS OF GERMANY. Beloved Son and Venerable Brothers, greetings and the apostolic blessing. — Having read your common letter, which was delivered to Us on the very day of the anniversary of Our assumption of the highest office of the Pontificate, We have received a timely fruit of consolation, first, because We perceive, as We already knew, that you are deeply concerned about Our affairs and interpret Our intentions most correctly. For to this sorrow, which We feel so keenly because of the actions of Our children, is added the fact that Our repeated exhortations to restore peace have, in some, aroused unworthy suspicion, and in others, open offense, as if those voices were not prompted by a love for the common good, but by the hope of Our own advantage.

[*Latin ed. p. 357*]

The Acts of Pope Benedict XV, page 357, indicate that, or that we desire this war to be concluded in such a way that there exists a peace founded on the principles of justice and equity. Indeed, the disturbances of souls impede true judgment, so that what is most evident is obscured; the Roman Pontiff, as Vicar of the King of Peace and Father of all Christians, cannot, by the very nature of his office, advise, urge, or encourage anything other than peace; he acts, by this very fact, not for the benefit of some individuals, but for the sake of humanity; and especially in this immense calamity of war, he who hastens its end, even by a single day, deserves to be highly praised by the human race.

Meanwhile, while we await the hoped-for peace, let us, with all our power, alleviate, to the extent possible, the burden of miseries that are connected with this war. In this, we commend your excellent efforts, and we encourage all Catholic societies that, for the sake of charity, are established throughout Germany, to cooperate, so that the needs of the most needy may be met more quickly and abundantly; and we commend those providentially established institutions in Paderborn, which are of great benefit to all those who are found captive within the borders of the German Empire. We praise this invention of Christian charity, and at the

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same time, we commend the care and diligence of the Bishops and clergy of Paderborn, and the generosity of all Catholics in Germany. But above all, today, we encourage the act of charity – which you carry out so excellently and in which we urge you to persevere – which is to strive to ensure that, among the diverse peoples that war has separated, not only are hatreds not increased, but that, through mutual acts of Christian mercy, they may gradually be softened. Thus, a path will be opened to the most desired peace for all, and this peace will be all the more stable, the deeper its roots are in the hearts of men. Therefore, continue, as you do, to implore divine help, and also to repeat the sacred prayers, and to invite children to the heavenly banquet: for humble and fervent prayers, accompanied by repentance and innocence, are very powerful with God.

And as a pledge of divine blessings and a testament to Our benevolence, We impart to you, Our beloved Son and venerable Brothers, and to your clergy and people, Our apostolic blessing.

Given in Rome, at St. Peter's, on the eighth day of the month of September, in the year 1916, in the third year of Our pontificate.

BENEDICT XV, Pope.

[*Latin ed. p. 358*]

358 Acta Apostolicae Sedis - Official Commentary ACTA 88. SACRED CONGREGATION CONSISTORIAL PROVISION FOR CHURCHES. By successive decrees of the Sacred Consistory, His Holiness Pope Benedict XV provided for the following churches: 16 June 1916. — To the titular episcopal church of Europus, he appointed the Reverend Father Tranquillus Guarnen, transferred from the cathedral church of Rieti. 7 August. — To the cathedral church of Pembroke, he appointed the Reverend Father Patrick Thomas Ryan, formerly the titular bishop of Ciazomen and administrator of the same Pembroke diocese. 22 August. — To the titular episcopal church of Basilinopolis, he appointed the Reverend Father Turibio Minguella y Amedo, formerly the Bishop of Seguntinum in Spain. 29 August. — To the cathedral church of Cork, he appointed the Reverend Father Daniel Cohalan, formerly the titular bishop of Vagen and Auxiliary of the same Cork diocese. 6 September. — To the metropolitan church of Manila, he appointed the Reverend Father Michael O'Doherty, formerly the Bishop of Zamboanga. — To the episcopal church of Tarensi, or Saint Elizabeth, he appointed the Reverend Father Mauritius Patrick Foley, formerly the Bishop of Tuguegarao. — To the episcopal church of Lipa, he appointed the Reverend Father Alfred Verzosa, parish priest of the place of Bantay, in the diocese of Nueva Segobia. 12 September. — To the episcopal church of Saint Agatha of the Goths, he appointed the Reverend Father Joseph Hum de Nardis, parish priest of the place of Capri, in the diocese of Sorrento. 30 September. — To the cathedral churches of Macerata and Tolentino, he appointed the Reverend Father Romulus

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Molaroni, canon and prebendary of the cathedral church of Pesaro.

[*Latin ed. p. 359*]

Page 359. SACRED CONGREGATION OF RITES. QUEBEC. DECREE CONCERNING THE INTRODUCTION OF THE CAUSE OF BEATIFICATION OF THE SERVANTS OF GOD, DANIEL, CHARLES GOUPIL, AND JOHN GARNIER, JOHN DE BRÉBEUF, NATALIS LANDE, CHABANEL, AND GABRIEL LALEMANT, ISAAC JOGUES, MAR- ANTONY RENATI OF JESUS.

The cause of beatification, or of declaring the martyrdom, of the Servants of God, John de Brébeuf, Gabriel Lalemant, Anthony Daniel, Charles Garnier, Natalis Chabanel, Isaac Jogues, Renatus Goupil, and John de la Lande, members of the Society of Jesus, presented to the Sacred Congregation of Rites, fills the entire Church of Canada with hope and expectation of a happy outcome, and it seems already to anticipate the joyful news. For before it are men illustrious for their sanctity and virtues, an ornament and honor of their own region; of whom six were priests and missionaries, who cultivated and enriched that very region, and two were laymen, zealous and fervent, helpers to the Fathers and companions in their suffering; all strengthened by divine grace, and "looking to Jesus, the author and finisher of faith, who, for the joy that was set before him, endured the cross, despising the shame, and is now seated at the right hand of God." Moreover, with a grateful and joyful heart, the Church of Canada acknowledges that, to a great extent, it owes to their labors and sufferings the firmness and observance of the laws of the Christian faith, which it now sees established and increased. And it cannot forget the former and happier times, and the true and ancestral glory, when the ancient mother Gallia, most devoted to the Catholic faith and to the Apostolic See, sent forth her missionary sons, as to other regions, and to New Gallia; and she favored them, who, fulfilling the mission of Christ and of the Church, preached the Gospel of the Kingdom of God to the nations for the salvation of the faithful. But returning to the matter at hand, it is necessary to speak briefly of each of the Servants of God.

First, John de Brébeuf, born of a noble family in the town of Gondé-sur-Vire, on March 25, 1603. He was admitted to the Society of Jesus on November 8, 1617, and received the priesthood in 1622, and went to the Canadian region for missions. To the Hurons...

[*Latin ed. p. 360*]

360 Acta Apostolicae Sedis - An official commentary, sent to the moderators in the year 1626, and remaining there until the year 1629. Forced to return to France, he again sought the Canadian region in the year 1633, and resided among the Hurons from the year 1634 to the year 1641, and again from the year 1644 to the year 1649. In the same year, being regarded

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as the head and father of the Christians, he was captured by the barbarians and thrown into chains, and was cruelly tortured, until, struck by an axe, he died on the 14th of March. Endowed with intellect and knowledge, he wrote books in the language of the barbarians and compiled lexicons, with which missionaries learned the various dialects of the Canadians and spoke for the good of the Christian religion. Outstanding in priestly virtues and labors, he diligently sought to bring all to Christ; he was also a singular devotee of piety and a protector of the Most Holy Virgin Mary and her most chaste Spouse, Joseph, and of the guardian angels.

Secondly, there is Gabriel Lalemant, born in Paris on October 10th of the year 1610, from parents distinguished by nobility and virtue. In the year 1630, he entered the Society of Jesus, and after completing his studies, and having undergone a course in philosophy and theology, he was ordained a priest, and publicly taught both disciplines with great distinction. Endowed with doctrine and virtues, and destined for the Canadian missions, which he had long desired, he arrived in Quebec in September of the year 1646, where he learned the language of the Indians. For about two years, he served in the regions of Sillery and Trois Rivières. At the beginning of the year 1649, he went with his companions to the Hurons, but, after scarcely half a year had passed, he, a faithful servant and minister of Christ, was seized by the barbarians and, after exquisite torments, was put to death.

Next is Anthony Daniel, born in Dieppe on May 27th of the year 1601, from an honorable family, and enrolled in the Society of Jesus on October 1st of the year 1621. In the year 1632, he was ordained a priest, and on June 24th of the following year, he went to the Canadian missions. Having some knowledge of the Indian language, he translated the Lord's Prayer into it, and composed pious verses for the neophytes to sing. He was among the first companions of Father de Brébeuf, who went to the Hurons and to the place of the Mission of Saint Joseph, Thonatiria, now called. He was then sent to Quebec, where he undertook to establish a seminary, which he completed, instructing indigenous students through the work of the missionaries. Returning to the Hurons in the year 1638, he founded several missions, of which three were particularly named after the holy patrons, Saint John the Baptist, Joseph, Spouse of the B.V.M., and Ignatius of Loyola. When the Iroquois invaded the mission, Charles Garnier, who had been born in Paris on May 25th of the year 1606, was killed outside the church, where the servant of God stood, guarding and defending his flock.

Fourthly, Charles Garnier, born in Paris on May 25th of the year 1606. He diligently pursued his studies at the College of Claramont. In the year 1624, he was admitted to the Society of Jesus, and after his novitiate, he studied letters and sciences.

[*Latin ed. p. 361*]

The Holy Congregation of Rites, in its decree number 361, having

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considered his case, and noting that he had completed his studies and, in the year 1636, had begun his priesthood, it is known that he departed for the missions in Canada. In Quebec, he baptized a Huron girl, whom he named Mary, according to a vow. He was assigned to the Huron people, and among them he devoted himself to his ministry through apostolic labors and virtues, until his death. Special mention should be made of the journeys undertaken by the Servant of God in the regions of Thonatia and Petan, and the founding of two missions, named after Saint John and Saint Mathias, respectively. Having been severely wounded by a lead bullet fired by barbarians, and seeing a man dying, he made every effort to reach him, and administered the absolution of penance. After this, exhausted by his efforts, he fell to the ground and breathed his last, on December 7th of the year 1640.

The fifth hero, Natalis Chabanel, was born in the diocese of Mimatensi, on February 2nd of the year 1613. He entered the Society of Jesus on February 9th of the year 1630, and, after completing his novitiate, he diligently pursued his philosophical studies, earning praise for his intelligence and diligence. For several years, he taught grammar, humanities, and rhetoric in Toulouse, to the great benefit of his students. After studying theology and completing the third year of probation, at the order of his superiors, he transferred to the Canadian province, arriving there on August 15th of the year 1643. After spending one year in Quebec, he was sent to the Hurons, and was assigned to the mission named after Saint Mary. With the utmost dedication and with a sole intention of glorifying God and saving souls, he devoted himself entirely to the work of ministry, and persevered in it until his death. He patiently endured many adversities and opposition from the devil, which, with God's help, he overcame victoriously. On March 17th of the year 1649, as he was traveling to the mission of Saint Mathias, he embraced a certain companion and said, "One must serve God until death"; and on that very day, he was killed by a Huron apostate.

The sixth and last of the group of priests, Isaac Jogues, was born in Aureliae in Gallia, on January 10th of the year 1607, and from a young age, he demonstrated the best character and a disposition towards virtue at home. He diligently devoted himself to his studies at the Aurelian college of the Society of Jesus. He entered the Society of Jesus and began his novitiate in Rouen in the year 1624. Ordained to the priesthood, he celebrated his first Mass on February 10th of the year 1636; and in the same year, he was sent to Canada, where he arrived in Quebec and went to the Hurons, where he remained until the year 1642. During that time, in order to preach the Gospel, he went to the Petan region with Father Garnier and with Raymbault. In the autumn of that same year, returning to the Hurons with Christian Indians and with two French young men, Goupil and des Coutures, he was captured near the bank of the Richelieu River by Iroquois warriors, and for almost a year, he was subjected to the most

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severe servitude within the Iroquois family. He suffered many things, and even...

[*Latin ed. p. 362*]

362 Acta. Apostolicae Sedis - Official Commentary. Because of the threat of mutilation, he was able to flee to France, where, weakened by his injuries and the lack of proper medical care, he became impotent and unable to offer the Sacred Liturgy. He received a generous dispensation from Pope Urban VIII with great joy, allowing him to receive the Sacraments. Restored to health and strength, he was sent back to Canada in 1644 and traveled to Mont Royal. In 1646, at the command of the Governor of Canada and with the consent of his superiors, he entered into a treaty with the Iroquois and successfully concluded it. Finally, returning to the Iroquois for a third time, he accepted the mission of preaching the Word of God; but, being ill-received and mistreated by the barbarians, he was struck down by a blow at Biel on October 18 of the same year, 1646. The first lay coadjutor was Renatus Goupil, born in Ahdegavia. As a young man, he spent a few months with the novices of the Society of Jesus in Paris, but, suffering from poor health, he did not remain in the novitiate. However, after regaining his strength and renewing his resolve, he went to New France and devoted himself entirely to the service of the Fathers. For two full years, while practicing the art of surgery, he provided useful assistance to the sick and injured in the hospital, and he also instructed children and adults in the mysteries and precepts of the Christian religion. Finally, while traveling to the territory of the Iroquois with his companions, he was captured by the enemy at the entrance to the first village and beaten with clubs and iron rods. Invoking the Holy Family of Jesus, Mary, and Joseph, he exchanged his arduous life for a blessed and eternal one on September 29, 1642. Another lay coadjutor, named Ioannes de la Lande, born in Dieppe, offered himself willingly and gladly to the Fathers of the Society of Jesus in the Canadian Mission, publicly professing that he was motivated solely by the desire to serve the glory of God. In September 1846, Father Jogues, accompanied by his faithful companion Ioannes de la Lande, set out for the Iroquois; but, in the middle of their journey, near the Lake of the Holy Sacrament, they fell into the hands of the barbarians. Stripped of their clothes and beaten with whips, they suffered the ultimate punishment that same year; Ioannes de la Lande on October 19, the very day after his mentor, Father Jogues. Meanwhile, the fame of the sanctity and martyrdom of these Servants of God, confirmed by signs and, as it is said, by miracles, grew daily to such an extent that an Ordinary Informative Process was instituted in the Ecclesiastical Court of Quebec and, along with a Rogatory Process in Paris, was sent to the Congregation of Sacred Rites. Furthermore, writings attributed to these same Servants of God were examined by the Sacred Congregation, and by a decree of May 28, 1912, it was determined

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that nothing should prevent further proceedings, at the instigation of the Reverend Father Camillo Beecari, General Postulator of the Society of Jesus, and with careful consideration of certain letters...

[*Latin ed. p. 363*]

The Most Reverend Congregation of Rites, number 363. To the Most Reverend Cardinals, to the Most Reverend Delegate Apostolic of Canada, and to other Archbishops and Bishops, and also to Abbots, Superiors General of Orders and Religious Congregations, Chapters, Rectors of universities, colleges, and churches, especially of the dioceses and missions of Canada; also, at the request of the Supreme Court of Canada, concerning the enactment of laws – with the Prime Minister, principal magistrates, and other distinguished men and women, especially those who are connected to the Servants of God by bonds of blood – the undersigned Cardinal Anthony Vico, Bishop of Portuense and of St. Rufina, as Proponent or Relator of this cause, after having presented the matter in the meetings of the Congregation of Sacred Rites, convened at the Vatican on the date indicated below, proposed the following question for discussion: Should a Commission for the Introduction of the Cause be appointed in this case and for the purpose of which we are speaking? And the Most Reverend Fathers entrusted with the safeguarding of the sacred rites, after hearing the report of the Proponent Cardinal, and after hearing the Reverend Father Doctor Angelo Mariani, Promoter of the Faith, both orally and in writing, and after mature deliberation, judged it fitting to respond: Affirmative, that is to say, that a Commission for the Introduction of the Cause of Beatification or of the Declaration of Martyrdom should be appointed, if it pleases the Most Holy. On August 8, 1916. Subsequently, this was reported to the Most Holy Lord Benedict, Pope XV, by the undersigned Cardinal, Pro-Prefect of the Congregation of Sacred Rites, and His Holiness, having approved the rescript of that sacred Council, deigned to sign with his own hand the Commission for the Introduction of the Cause of Beatification or of the Declaration of Martyrdom of the Servants of God, John de Brébeuf, Gabriel Lalemant, Anthony Daniel, Charles Garnier, Natalis Chabanel, Isaac Jogues, René Goupil, and John de la Lande, of the Society of Jesus, on the 9th day of the same month and year.

[Signature] A. CARD. EP. PORTUEN. ET S. RUF., S. B. C. Pro-Prefectus.

[Signature] L. B S. Alexander Verde, Secretarius.

[*Latin ed. p. 364*]

364 Acta Apostolicae Sedis - Official Commentary. SACRED CONGREGATION FOR SEMINARIES AND CATHOLIC UNIVERSITIES. STATUTES OF THE ROMAN ACADEMY OF SAINT THOMAS AQUINAS. I. The name of the Academy shall be: The Roman Academy of Saint Thomas Aquinas. II. Its purpose is to explain, defend, and propagate the

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doctrine, especially philosophical, of the Angelic Doctor, and to carefully preserve all that has been transmitted in the Encyclical Letters, beginning with: *Aeterni Patris*. III. The principal functions of the Academy are: To cooperate with other Academies of the same kind in promoting Christian philosophy, according to the principles of Saint Thomas Aquinas, everywhere. To acquire knowledge of the works and distinguished publications, and especially those dealing with philosophical matters, in order that the condition of the sciences may be ascertained everywhere. To publish treatises, and books, where necessary, in which either subtle errors may be refuted, or the philosophical doctrine may be illuminated and expanded. To dedicate itself to training doctors who are eminently suited for teaching scholastic philosophy. IV. The Academy shall consist of a Council for governing the Academy, a Prefect, Academics, and Students. V. The Council of the Academy shall be composed of three Cardinals. The Cardinal Prefect, for the time being, of the Sacred Congregation for governing Seminaries and Catholic Universities, shall hold the first place. The Cardinals of the Council shall hold meetings when it seems necessary for the affairs of the Academy. A single Academic shall attend as secretary, and may add another Academic as an assistant when necessary. VI. The Academics shall be chosen by the Council of Cardinals. There shall be no more than forty in number. Of these, twenty shall be chosen from learned men residing in the city, ten from the Italian region, and ten from foreign nations. All shall be subject to the Council for the governance of the Academy.

[*Latin ed. p. 365*]

I. The Holy Congregation for Seminaries and for Universities shall hold meetings of the Academy each month during the academic year, with the presence of at least one of the Eminent Cardinals who are Moderators. No member of the Academy residing in Rome shall be excused from attending these meetings.

II. In these meetings, one of the members of the Academy shall recite a discourse, which he shall have prepared on a subject proposed by the Council of Eminent Cardinals Moderators. This discourse must first be approved by one of the Councils of Eminent Cardinals Moderators. Then, a discussion shall be held concerning books and writings recently published on philosophical matters; and, according to the judgment of the Eminent Cardinals Moderators present in the meeting, it shall be determined what action is to be taken, whether to refute errors or to explain and promote the philosophical doctrine.

III. The discourses recited in the Academy meetings, which the Eminent Cardinals Moderators shall deem worthy, shall be printed and published at the end of the year.

IV. The Alumnus body shall consist of young men of the best promise

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who have completed the philosophical curriculum. The Eminent Cardinals Moderators shall assign some of the Alumnus members, at least once in each week of the academic year, to give instruction on the principal topics of Thomistic doctrine; and the designated members of the Academy shall explain the discussions of the Angelic Doctor, comparing them, where necessary, with the opinions of other philosophers. From time to time, the Alumnus members shall be given the opportunity, for the purpose of practice, to expound on some topic of philosophical doctrine, according to the method of St. Thomas, in the form of a lecture, during the Academy meetings.

V. Alumnus members who have regularly attended the Academy lectures throughout the entire academic year shall, at the end of that year, be eligible to compete for prizes. They shall be assigned a written topic to explain within a specified time. Those who perform best shall receive prizes or commendations.

VI. Alumnus members who aspire to obtain the doctorate in philosophy of St. Thomas shall not be admitted to the examination on the doctrine, either in writing or orally, on any topic of philosophy, whether it pertains to the speculation of truth or to morals, unless they have been enrolled in the schools of the Academy for at least two years and have frequently attended the Academy meetings. A candidate shall be considered successful if he obtains at least two-thirds of the points.

VII. The examiners shall be selected in turn, and there shall never be fewer than three nor more than five examiners: and each examiner shall have a certain number of points, secretly, to award for approval or disapproval.

[*Latin ed. p. 366*]

366 *Acta Apostolicae Sedis* – Official Commentary to be attributed. The academic who is in charge of secret matters, or his assistant, shall always be present, shall perform the duties of an examiner, and shall record the outcome of the matter. XII. A certain reward shall be granted to academics, whether for lectures given, or for writings completed, or for their presence in meetings, and also to students for their participation in discussions, whether defending or arguing. These rewards, and all other expenses, shall be provided annually by the Most Eminent Cardinals Moderators. The academic in charge of secret matters shall subsequently render an account to the Most Eminent Cardinals Moderators. From an audience held on February 11, 1916, the Most Holy Father, Pope Benedict XV, confirmed the Laws of the Roman Academy of St. Thomas Aquinas, approved by the Most Eminent Cardinals Moderators of the same Academy, and declared them valid, notwithstanding the Decree of the Sacred Congregation of Studies, of July 23, in the year 1910, and all other contrary provisions.

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CAIETANUS CARD. BISLETI.

LUDOVICUS CARD. BILLOT.

MICHAEL CARD. LEGA.

Salvator Talamo, Academic in charge of secret matters.

[*Latin ed. p. 367*]

Holy Roman Rota, Acts 367. Roman Rota of Paris. Matter of the Nullity of Marriage (Edeline-Ledanois). During the happy reign of Pope Benedict XV, in the second year of his pontificate, on the 4th of March, 1916, the Most Reverend and Venerable Fathers, Joseph Mori Ponens, Frederick Cattani, and Peter Rossetti, Auditors *de turno*, in the matter of the Parisian nullity of marriage, between Albert Edeline, represented by his legitimate procurator *ex officio*, the advocate Nazarenus Ferrata, and the defendant, Joanna Ledanois, widow of Lerebours, who appeared and argued in the cause as Defender of the Bond *ex officio* before this Holy Tribunal, rendered the following definitive sentence. Albert Edward Edeline, who resided with his parents in the town of Vimoutiers, devoted to the mechanical arts after completing his military service in France, around the month of November of the year 1899, set sail for the shores of Africa, where he earned wages among the Boers in the Transval region; after eight months, he returned to his family, who had in the meantime moved their residence to another place, or to the town of Bordeaux Saint-Clair, and with whom he had previously sent his belongings from the city of Paris, in order to find employment suitable to his art. Albert, after a few days of staying at his new family residence, returned to Paris for the same purpose, but this time he did not go to his former place of residence, or to the Avenue de Segur, but to his brother Julius, at number 13, Rue de Buci, and from there he sent news to his parental home, where his belongings were still kept. While in Paris, seeking employment suitable to his art, he met George Ledanois, a fellow soldier in Africa, and who also resided in the same city with his parents at number 9, Rue Pierre Sarrazin. With him was his sister, Joanna, already a widow, Lerebours, who, after the death of her husband, did not...

[*Latin ed. p. 368*]

368 Acta Apostolicae Sedis - The official record states that he returned, but the deceased husband's residence was located at number 42, on the "rue du Faubourg Montmartre," within the parish of the Blessed Virgin of Loreto. The parents' home, however, was within the boundaries of the parish of Saint Severin. Albert immediately re-established a relationship with George and began to associate with his sister. Indeed, after George's brother, Julius, moved to another residence, or to the town of Lilas, Albert

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offered him lodging in his friend's home, where he rented a room. After a few days of staying there, with the help and urging of George's parents, a betrothal was arranged between him and the aforementioned widow, Joanna Lerebours, and shortly thereafter, the marriage took place, which was celebrated on February 2, 1901, before the parish priest of the same parish of Saint Severin, after only the required announcements had been made in that parish, because it was erroneously believed that the betrothed resided there. This marriage unfortunately met with an unhappy outcome; for after three or four years of cohabitation, due to the infidelity and improper conduct of the wife, harmony between the spouses vanished, and in 1904, they were civilly separated due to the fault of the aforementioned wife, and at the urging of Albert, who later learned of its invalidity in the ecclesiastical court due to a defect in the Tridentine form, on January 13, 1913, he brought a petition before the Archdiocesan Court of Paris for a declaration of its nullity. After a properly constituted trial and a process was conducted, the Parisian judge issued a favorable judgment for the plaintiff on September 24 of the following year. This is because the local Defender of the Bond appealed to our Holy Tribunal, and therefore, after all legal matters have been explored, the case is once again being examined under the usual formula of doubt: Does the nullity of the marriage exist in this case? In law. The Fathers of the Church considered it necessary to recall and keep these matters in mind. Before the decree of the Sacred Congregation was issued on August 2, 1907, marriages, whether before the parish priest or by reason of domicile or quasi-domicile, or of that person, or of a delegate of the Ordinary, and with two or three witnesses, must be contracted according to the law of Trent, according to the well-known canon Tametsi, session 24, on the subject of marriages. "Those who attempt to contract marriage otherwise than in the presence of "the parish priest or another priest, with the "license of the parish priest or Ordinary, and "with two or three witnesses, "the Holy Synod declares to be entirely incapable "of contracting in this manner, and declares "such contracts to be void and null, as it "makes them void and annuls them by the "present decree." The parish priest, as the Council of Trent indicates, is the one within whose parish boundaries the parties to be married have their true domicile or quasi-domicile, or is the parish priest proper: and it is sufficient that at least one of them is in this condition (Urban VIII, Constitution Exponi, August 14, 1627; Benedict XIV, Constitution Paucis; March 19,

[*Latin ed. p. 369*]

The Roman Rota, session 369, title 1, year 1758; the Sacred Congregation, July 7, 1887), with the exception of vagrants, concerning whom the question arises whether, for the validity of their marriage, they must contract it before the parish priest of the place where they reside, or whether it suffices that they contract it before any parish priest, reference may be

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made to Card. Gasparri, *Tractatus Canonici de Matrimonio*, § 1090, edition 3. In any case, however, the prescriptions contained in chapter 7 of the same session must be observed for the validity of these marriages. For our theologians and canonists, as transmitted by Card. D'Annibale, *Tractatus Moralis*, vol. 1, § 83, the domicile is the place of permanent residence. Therefore, a person is said to have a domicile in that place where he has established his permanent abode and the majority of his possessions and fortune, or, as stated in article 7 of the Civil Code, where he does not intend to depart, unless something compels him to do so; for civil law, the domicile is the municipality; in canon law, with regard to marriage, it is the parish; therefore, a person can have a domicile in a certain city and nevertheless not retain it in the parish if he has his legally required residence outside the boundaries of that parish. A quasi-domicile is a place where a person resides for at least the greater part of the year. But for both (domicile and quasi-domicile), a residence according to the customs of citizens is required, and a mere sojourn in the manner of a traveler is not sufficient: Van de Burgt, *De Impedimentis Matrimonii*, vol. 1, chapter 7, no. 210. For both, two elements must concur, namely, the intention or will to reside permanently or for the greater part of the year in that place, as the formal element, and the fact of residence, as the material element; however, the material element is of no effect without the formal element, and conversely, the formal element alone sometimes does not constitute a domicile or quasi-domicile: for a residence without the will to prolong it for a prescribed period is ineffective for acquiring a domicile or quasi-domicile, and conversely, once a domicile or quasi-domicile has been acquired, absence from the place of residence, even for a long time if we are speaking of the domicile, or for some time if we are speaking of the quasi-domicile, does not harm, unless the intention to not return arises. Therefore, a domicile or quasi-domicile is not conceived as long as a person does not establish a residence in a certain place with the intention of retaining it for a prescribed period: therefore, according to Card. D'Annibale, *loc. cit.*, "if someone comes to a place as a traveler, or for the purpose of settling a lawsuit or conducting business, or to seek some service not requested there, and he will not remain there, although he may stay there for a year, he does not acquire a domicile." A domicile or quasi-domicile, once properly acquired, is not lost except by contrary will and departure, because, as stated in *Ravennaten. H. S. T.*, May 15, 1911, "everything that is born, is dissolved by the same causes." Therefore, it is not sufficient to have departed, if the intention...

[*Latin ed. p. 370*]

370 Acta Apostolicae Sedis - Commentarium, Officiale, concerning the matter of returning, whether one has the right to return, or whether one intends to depart permanently, even if one has truly departed: Sánchez,

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De matr., lib. 3, dis. 23, n. 2. Indeed, as is stated in the aforementioned "Ravennaten" case, it is more difficult to lose a domicile than to acquire one, because in a case of doubt concerning the abandoned domicile, one must adhere to the principle of its preservation, according to the well-established rule: "In dubio melior est conditio possessoris" (cf. also Parisien, d. 22 aprilis 1913 coram eodem S. T.), and because, as is noted in another Gratianopolitan case of the same month, namely on the 8th, the domicile is something favorable to the faithful, and its loss is considered an unfavorable thing. However, a domicile can be either necessary or voluntary. A necessary domicile is that which foreign nationals have, such as children in a family of a younger age, or a wife or a minor, respectively, under the authority of a father, husband, or guardian. Children in a family lose their necessary domicile upon reaching the age of majority, but if they do not acquire another domicile, or better still, if they do not first renounce it, their original domicile in Cariati continues as a voluntary domicile, as is stated in the aforementioned cases of Ravennaten and Parisien. But when should this domicile be considered lost? In practice, this is a very difficult matter to resolve. The author, F. Deshayes, in "Questions pratiques sur le mariage," question 48, page 80, after considering several hypotheses, concludes as follows: "Therefore, in accordance with this principle, which states that 'a domicile is maintained as long as it is not intentionally and definitively abandoned,' the adult child remains canonically domiciled with his parents after reaching his majority, until the moment when both of these conditions are simultaneously fulfilled for him: his actual establishment in another parish, and the renunciation of the domicile (the cessation of the affection for the domicile) that he had maintained with his parents until then." But this cessation of the affection for the paternal domicile cannot be immediately presumed from the fact that the child has acquired a domicile elsewhere, or from a change of domicile made by the parents to another location: firstly, because a domicile in one place and a domicile in another are not mutually exclusive, according to Card. D'Annibale, I.c., ad notam n. 23; secondly, because this change does not imply the dissolution or cessation of the family bond with the child, and therefore the family domicile is still considered to exist, unless it is proven by suitable witnesses, or by other means of proof, that the child's will has changed. In fact, it cannot be determined whether the assistant pastor of S. Severino, in whose church the marriage between Ioanna Ledanois and Albert was celebrated, acted with the delegation of the parish priest of one of the contracting parties, unless the marriage certificate and the banns published in that church state otherwise, or unless there is evidence of a license or delegation from elsewhere.

[*Latin ed. p. 371*]

St. Montana, Bota 371, holds that presumption is not sufficient (cf. the

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aforementioned case from Paris, April 22, 1913). Therefore, it must be determined whether at least one of the contracting parties, at the time of the marriage contract, had a domicile or quasi-domicile in the parish of St. Severin. Certainly, Joanna Ladenois, widow Lerebours, affirms that at the time of the marriage contract, she had a domicile in the parish of St. Severin. When questioned by the judge, she responded: "Where did you live at the time of your marriage to Mr. Edeline?" Response: "With my parents on rue Pierre Sarrazin." However, this affirmation is contradicted by the plaintiff, who testified to the contrary: "At the time of the marriage, 'my future bride' lived at 42 Faubourg Montmartre; her parents, on the contrary, 'lived at 9 rue Pierre Sarrazin.'" Which testimony should be given credence? The judge in Paris resolves this matter in his notes, as recorded in the proceedings: "The assertion of Mrs. Edeline, stating that 'at the time of the marriage, she lived with her parents and had left her previous residence (which she does not even name) on rue de Faubourg Montmartre, without any intention of returning,' is not in accordance with reality... On the contrary... Mr. Edeline told the truth in stating that Mrs. Ledanois, widow Lerebours, did indeed live at 42 Faubourg Montmartre at the time of the marriage." And indeed, the judge in Paris, in confirmation of his assertion, presents several documents, such as certain receipts from a baker, and receipts from a silversmith for the purchase of items made for the bride on the Faubourg, in the days leading up to the marriage, as well as a lease agreement for a house on "rue des Martyrs" commencing on July 1, 1901, from which it is clearly evident that she maintained her former residence on the aforementioned Faubourg Montmartre before the marriage, and therefore her testimony must be considered false, since it was given in writing only, without an oath, and moreover, by a woman of loose morals and who does not fear God. Furthermore, Albert Edeline, the plaintiff in the case, but who were also called as witnesses, both on the part of the husband and on the part of Joanna, all affirm that she did not live with her parents at the time of the marriage celebration, which she left when she married her first husband, and never returned, and they add that she lived on "rue Faubourg." It is not relevant to object that these witnesses are in disagreement with each other regarding the true domicile of Joanna at that time, since some say that she lived at 42 Faubourg Montmartre, while others place it "près de la Bourse" or "du côté de la Bastille." However, this discrepancy does not harm the case, because what is essential is the absence of a domicile or quasi-domicile of Joanna in the parish of St. Severin.

[*Latin ed. p. 372*]

372 Acta Apostolicae Sedis - Official Commentary, in which all witnesses unanimously agree, and the aforementioned discrepancy can easily be resolved. For the locations indicated by both parties are situated within the same parish, one named after the Virgin of Loreto, whose boundaries ex-

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tend on the right bank of the Seine, far from the parish of St. Severin, located on the left bank. Since the matter concerns the designation of locations by the name of roads, an error could easily have crept into the minds of the witnesses; however, their testimony, in substance, is consistent, and therefore, this should not be detrimental. Therefore, the statement made by Joanna, contrary to the truth, regarding her residence in the parish of St. Severin at the time of her marriage, is excluded by the testimony of the older witnesses, whose depositions should be given greater weight. No weight can be given to the validity of the marriage in which Joanna is said to have resided with her parents in the parish of St. Severin. For the parish priest, being newly appointed to the parish, accepted the indication of residence in good faith, without investigating it further, as he himself testified in court: "It was one of the first marriages I performed at St. Severin, where I knew no one. Nothing led me to believe that the bride resided elsewhere. I noted in the document that the bride was of age; she was supposed to be." Furthermore, there is nothing further to add on this point, since the defender of the marriage of the Parisian Curia has objected nothing to it, and the same Curia maintains that there was a certain lack of domicile in the aforementioned parish: "The tribunal of the officiality of Paris had no doubt about the personal domicile at the time of the marriage of Madame Veuve Lerebours, nee Jeanne Ledanois, at No. 42 Faubourg, located in the parish of N. D. de Lorette." Therefore, the Fathers of the Lord in the same appellate court adopted the same conclusion regarding the lack of domicile of Joanna in the parish in which the disputed marriage was celebrated. The Fathers of the Lord also considered the presumed domicile or quasi-domicile of Albert, the plaintiff, with the bride's parents at 9, Pierre Sarrazin Street, at the time of the marriage. Indeed, Albert, coming from the region of Transval, first went to his parents, where all his belongings were kept, having been moved there before his departure for Africa; then, he went to the city of Paris to find an occupation corresponding to his art. He went to the home of his brother Julius at 13, Buci Street, and while staying there, he visited Joanna's brother, George, with whom he had already earned a stipend in the war against the Boers; thus began the marital negotiations with Joanna, at the urging of her parents. Albert remained in his brother's home until the end of November 1900, as his brother Julius testified, who in the same month moved his household to the town of Lilas to take up a new position. On this occasion,

[*Latin ed. p. 373*]

A. Montana Mota 373. Albert first went to his parents and then stayed with the parents of George at the aforementioned address, Pierre Serrazin, remaining there for a short time, either until the wedding ceremony or until February 2nd of the following year. After the marriage, it was agreed that he would follow the bride to her home at 4, Faubourg Montmartre. "This

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[stay at George's parents' house], as Albert himself says, lasted eight or ten days. The marriage was agreed upon at that time. It had been agreed from the beginning of my arrival on rue Pierre Sarrazin... After the marriage, we were to live with my wife, who had her home and furniture at Faubourg Montmartre." Thus, Albert's residence with Joan and her parents, under the jurisdiction of the parish of Saint Severin, was only temporary and without the intention of establishing a domicile or quasi-domicile there. This is also confirmed by witnesses. Thus, Albert's father: "After the marriage, my son intended to live with his wife." His mother: "After the marriage, the newlyweds were to live with the wife." Helen Edeline, Albert's sister: "After the marriage, they were to live with the wife at Faubourg Montmartre." The witnesses, George Ledanois, Joan's brother, and Carola, her sister, state that the couple agreed to live together after the wedding at 20, rue des Martirs: but this is irrelevant, because this street is adjacent to the rue Faubourg Montmartre and is therefore not located in the parish of Saint Severin, but in that of the Blessed Virgin of Loreto; hence, according to these witnesses, there was no element of formal intention in Albert to acquire a domicile or quasi-domicile in the aforementioned parish of Saint Severin. Given these circumstances, since the parish priest of this parish was neither the proper priest for Joan, the bride, nor for Albert, the groom, it follows that the marriage, celebrated before him, is vitiated by a defect in form, as required by the Council of Trent, and is therefore null and void. The Fathers of the Church could not have admitted that Albert was, at the moment of the marriage, a vagrant, and therefore, even if he was temporarily residing in the parish of Saint Severin, he could not be considered to be under the jurisdiction of that parish on the basis of vagrancy. For this to be established, it would have been necessary to conclusively demonstrate that Albert had sent a message to his paternal home. Vagrancy, in law, is a very odious condition, and the principle, as stated in the case of Parisiensi-Nullit, matr. (Mellard-Varigault), dated January 27, 1912, is that it is presumed to be absent, since the status of a vagrant is extraordinary and not to be presumed, as it is written in Roman law, leg. 25 ff. ad municipalem § 2: "It is difficult for anyone to be without a domicile." Therefore, in cases of doubt, one must assume that a domicile exists, especially if it is a matter of a domicile of origin: D'Annibale, 1. c, note 12. Furthermore, the Rota, in the aforementioned Gratianopolitan case, also states:

[*Latin ed. p. 374*]

374 Acta Apostolicae Sedis - Commentarium, Officiale: "Unless it is clearly established through an explicit declaration that someone intended to abandon their domicile, and especially their domicile of origin, it is more appropriate to consider the accumulation of two or more domiciles, as stated by H. S. O. in decisions 429, no. 13, p. V, vol. I, decision 670, no. 24, p. IV, vol. III, decision 364, no. 7, p. XIII in Recent: 'and it is

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justly so, because to establish a domicile is something favorable for the faithful, and therefore its loss is very undesirable and must be strictly interpreted and applied.' In the case of the father speaking about the paternal domicile of his son Albert, he said: 'He has never broken with the domicile of his parents.' The mother and sister of the plaintiff declare that after his return from Transvaal, he did not intend to stay with them: 'He had no intention of settling with us, he had no intention of settling with his parents.' But this does not prove the absolute will to abandon the paternal domicile, provided that this will was subordinate to the finding of a suitable occupation. Albert left his home and his family to pursue a career in mechanics in a large city; but he never had a permanent residence anywhere, so that it cannot be argued that his will was not to return to his paternal home. And indeed, he always returned, either before earning a salary, or after returning from Africa, or while living in Paris with his brother; and moreover, when preparing to leave for Transvaal, he entrusted his belongings to his parents for safekeeping and stayed with them until the day of the wedding. It is established that Albert intended to acquire a domicile in Paris or in another city, but since he never found what he was looking for, it is presumed that he maintained his paternal domicile, because the loss of a domicile is very undesirable and must therefore be strictly understood and applied. The defender of the bond before the Parisian court argued that Albert's paternal domicile had been broken because, during his stay with the Boers, his parents had changed their domicile, transferring it from the town of Oppido Vimoutiers to the town of Bordeaux Saint-Clair. But in this case, Albert's paternal or family domicile depended not on a material change of location, but rather on the will to remain within the family, a will that persisted even after his return, as evidenced by his frequent visits to his parents' home. To lose a domicile, it is not enough to leave the place where it is established, but it is required to leave with the intention of not returning, according to law 27, § Gelsus ad Municipalem (Sánchez, De matr., lib. 3, dis. 32, 2; see above, Ravennaten, no. 5). This intention of not returning was lacking in Albert, given the circumstances described above, and therefore he could not be considered as having lost his domicile."

[*Latin ed. p. 375*]

The Roman Rota, having considered all the matters of law and fact presented, and having diligently pondered them, invoking the name of Christ, We, the undersigned Auditors of Tournon, sitting for the Tribunal and with God alone before our eyes, do hereby decide, declare, and definitively pronounce, answering the proposed question: Affirmative, that is to say, that the marriage is null in this case, and We confirm the judgment of the first grade of Paris. Thus We pronounce, ordering the Ordinaries of the places and the ministers of the tribunals to whom this

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pertains, to execute this Our definitive judgment, and against those who resist, to proceed according to the sacred canons, especially chapter 3, session 25, concerning reforms, of the Council of Trent, employing the executive and coercive means that shall be deemed most suitable and effective for the circumstances. Rome, at the seat of the Tribunal of the Holy Roman Rota, on the 4th of March, 1916. Joseph Mori, Presiding. Frederick Cattani Amadori. Peter Rossetti. L.S. From the Chancery, 26th of April, 1916. Rev. T. Tani, Notary. SUPREME APOTOLIC TRIBUNAL OF BONONIA. COMMISSION CONCERNING THE REGULARITY OF PARISHES between the Order of the Regular Canons of the Most Holy Savior, represented by its legitimate procurator, Thomas Ambrosetti, advocate, and the Archdiocesan Curia of Bononia. 1. Before the overturning of public affairs, at the end of the 18th century, there were 54 parishes in the city of Bononia, of which twelve belonged to the Regulars, and several others were subject to popular or family patronage. In the year 1806, all were reduced to the number of 18.

[*Latin ed. p. 376*]

376 The Acts of the Apostolic See – Official Commentary are published, and all are declared secular, and, with one exception, of free collation; this condition of the parishes has, until now, remained substantially unchanged: today, the number of parishes has increased to XXIV; of these, only three are archpriories, but it was asserted, even in the Report on the state of the diocese during the Visit to the Holy See in 1911, that none of them were subject to any religious order. Among the eighteen parishes that existed in 1806, the parish of St. John on the Mount is also included, which, without controversy, belonged fully and properly to the Order of the Regular Canons of the Lateran of the Most Holy Savior in previous years, indeed, in centuries past; and therefore, after the religious were dispersed during the public upheaval, and their goods were plundered, it should have been endowed by the Archbishop with a new endowment and new revenues, along with a larger territory. The Regular Canons of the Lateran, restored later in Bologna, sought to assert a certain right during the vacancies of this parish, which occurred in the years 1846 and 1898, until, in the last vacancy, which occurred with the death of the secular priest Anthony Domenichini, on August 13, 1914, these Regulars formally petitioned the Archbishop to recognize that the aforementioned parish had been and was of a regular status. However, the Archdiocesan Curia refused, asserting that the parish had been and was entirely secular since 1806. They then considered initiating a lawsuit before the Sacred Roman Rota or in the first instance of jurisdiction, for which purpose they obtained a commission. Indeed, they believed that the articles 13 of the Appendix to the Rules of Our Order had occurred, which state: "When the matter is of grave importance and fraught with difficulties, the

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decision is referred to the Plenary Congregation." To this, they explicitly appealed. Therefore, in the plenary meetings of the Congregation, held on July 8, 1916, in the buildings of the Vatican, with the Most Reverend and Venerable Father Vincent Cardinal Vannutelli, Dean of the Sacred College, presiding, a decision was reached regarding the customary formula of the doubt: Whether the commission should be approved in this case. This decision of the Most Reverend Fathers became public, at the request of the Most Reverend Archbishop of Bologna, George Cardinal Gusmini, by order of the Most Reverend Cardinal Prefect of the Sacred Tribunal.

2. The Most Reverend Fathers first noted that a necessary condition that must be met by any commission petition to initiate a trial before the Rota is that some basis of a good right must be demonstrated on the part of the petitioner, upon which a legal action can be explained and defined. Both are clearly indicated by law: first, by canon 40, § 2, of the Proper Law, in conjunction with articles 28-29 of the Rules of Our Order, which prohibit the approval of any petition that is...

[*Latin ed. p. 377*]

By Apostolic Decree 377, the good of the law is lacking; then, canon 16 of the Proper Law states, "It is to be reserved to the Sacred Congregations to know of dispositions... which are not sentences issued in judicial form"; and indeed, so that (canon 17) "not even incidentally can the Holy Rota see these matters, and if, nevertheless, 'it pronounces a sentence, this sentence is null by law itself." We also read more clearly in the Special Norms, chapter I, § 3: "If a petition is brought before the Holy Rota, 'they will examine the nature of the question, whether the matter is to be handled through administrative and disciplinary means, or whether it involves the supreme law. If the former occurs, the judgment of the matter is reserved to the Sacred Congregation to which it pertains"; this prescription was seen by the Fathers to contain a norm which, in the present case, should be kept especially before their eyes. To demonstrate how consonant the Signatura's institutions are with this fundamental principle, universally accepted today, regarding the distinction between two types of competence, namely administrative and judicial, it seemed fitting to recall articles 1698 et seq. of the *Motu Proprio* of November 10, 1834 (also known as the Gregorian Regulation), where that principle is clearly applied to practice, as shown in the decision in the case of the Bononian Competence, June 20, 1836 (of that year, XXXIX), signed by the Most Eminent Prefect, Cardinal John Francis Falzac. Moreover, the Most Eminent Falzac himself, in another decision concerning the Lauretan Circumscription, 1834 (LXXIX), recounts, as the author, that he was the first to be referred to the oracle of the Most Holy Signatura, from which he received a solemn response: "There is no right, and no jurisdiction, for ordinary judges in knowing and defining matters and controversies which are subject to administrative, political, and direc-

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tive power"; the sum of the wisdom of this oracle is illustrated there with many and learned considerations.

Therefore, with this foundation established, the Most Eminent Fathers observed two things to be certain: namely, that a decree is to be found in the records, concerning the condition and secular status of the parish of Saint John in Monte, from the year 1806, without any exception; and that no document is presented to the contrary, by which it can be shown that that decree was ever rescinded, revoked, or in any way rendered ineffective. First of all, there is in the records a decree of May 20, 1806, issued by the Most Eminent Charles Cardinal Oppizzoni, Archbishop of Bologna, and Delegate.

[*Latin ed. p. 378*]

378 Acta Apostolicae Sedis - Official Commentary of the Apostolic See, published, by which, in virtue of the aforementioned Apostolic Delegation, provisions are made concerning all regular parishes in Bologna, and specifically concerning the parish of St. John in Monte, and such provisions are made in a manner that completely excludes the present intention of the Regular Canons. For while these [Regular Canons] contend that the parish of St. John in Monte is regular, in the decree itself, it is written: "Using the Apostolic authority and power, which has also been specially delegated to Us by letters from the Holy Father, Pope Pius VII, dated June 8th and August 3rd of the aforementioned year, We decree, command, and declare that all parish churches, which previously, under any title, belonged to the Regulars, that is, those of St. John in Monte and of the Most Holy Savior, etc.; now and in the future, We order that they be free, released, and fully exempt from any authority or right of the Regulars... and that they be fully subject to Us, perpetually, and to Our successors in the Archbishopric of Bologna. Furthermore, using the powers granted to Us by means of the aforementioned Apostolic Letters, We erect the aforementioned churches of St. John in Monte, of the Most Holy Savior, etc., into secular benefices, and We order and establish that secular clergy be elected by Us and Our successors, who, after consultation and examination according to the form of the Council of Trent... shall assume the care of souls. Derogating, etc.; and also, etc.; in every, etc." It is not seen that such a decree is a decisive document in the matter, according to the prescription also frequently stated by this Order, e.g., in Forolivien, Restitution in integrum, August 22, 1844 (LV), n. 5: "An authentic and decisive document is only that which exhibits a clear and evident proof of the matter, free from ambiguity, and far from any reasonable doubt." 4. The second point is that, equally, no document has been presented by the Regulars that sufficiently proves that the parish of St. John in Monte was restored to a regular status after the year 1806. On the contrary, in the records, there are attestations of Archbishops in the Visitations of the Most Holy Limina, in the years 1830, 1873, 1878,

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1897, 1911, in which it is stated that there is no regular parish in the city of Bologna, but only in the rest of the diocese. But the Regulars, despite all of this, present certain supporting documents to argue that the aforementioned parish remained regular, or was restored, which appear insufficient and inconsistent, and indeed, these very things have not infrequently led the judges to a contrary conclusion. They first present a certain rescript dated August 9, 1828, in which Apostolic authority confirms an agreement between the Archbishop and the Regular Canons.

[*Latin ed. p. 379*]

Apostolic Decree 379: Regarding the regular clergy concerning the regularity of the rural parish of Saint Lucy of Corbaria; and because it is presupposed in the narrative part of the document that the "Cardinal" Archbishop, in order to maintain the nomination of a secular priest, specifically concerning the parish church of Gasalecchio, and asserting any right concerning other matters, "voluntarily relinquished," they endeavor to confirm that the Regular Canons were restored to their former status concerning all Bononian parishes formerly pertaining to them in some way, with the exception of Casalecchio; therefore, they conclude, concerning the parish of Saint John in Monte as well. But, – having overlooked the fact that the reading of the other parts can easily be presumed to have arisen from the carelessness of a scribe who should have written only those things pertaining to the subject matter, referring specifically to the various propositions which the Archbishop successively brought forward concerning the controversial parish of Corbaria at that time, – everyone understands that the phrase "concerning other matters" (even if it must be read in that way) is restricted to those things contained in the preceding petitions; and that this, as is ordered by a principle repeatedly affirmed by Our Order, e.g., in Rome, Circumscription and Designation, January 26, 1832 (XXXVI), n. 10: "It is impossible for the Prince to grant more than is requested in the petition, and the concession derives its norm from the petition." This is made more evident by considering that, while the words are found in the narrative part of the document, in the dispositive part it is explicitly stated: "We approve the agreement contained in the very petitions." But, "in the very petitions," where are contained those "other matters," not a single word demonstrates that the parish of Saint John in Monte can in any way be related, since the entire matter concerns only the two named rural parishes, Saint Andrew of Casalecchio and Saint Lucy of Corbaria, concerning which, in effect, the transaction took place. Furthermore, the Canons demonstrate that, in the vacancies that occurred in the years 1846 and 1898, they were sufficiently diligent in asserting their right before the Archbishops, and that they sufficiently pursued their intention. However, upon examining the records, it is immediately evident that this right, which they claim "they effectively asserted," was

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not that of the property or regularity of the parish; for in both vacancies, there was a competition, by virtue of which – in 1846 freely, and in 1898 upon the presentation of the Abbot Canon Regular of the Most Holy Savior – the Archbishops offered the parish to secular priests. But it is an unquestionable matter of law, according to the Constitution of Pope Pius V, Ad exequendum, dated November 1, 1567, § 5, that a regular parish, which can only be a parish fully united to a monastery or order, is not conferred through competition.

[*Latin ed. p. 380*]

The official commentary of the Acta Apostolicae Sedis also indicates that the assertion of the regularity of the parish in the aforementioned matters appears, in explicit terms, to be excluded in the very letters of the Abbot, Canon Regular of the Lateran Palace, claiming legal rights. We read in the letters from the year 1846: "that parish has long been under our jurisdiction"; in the letters from the year 1898: "I therefore nominate and present... as the parish priest of St. John in Monte, a parish of right belonging to the Canons Regular of the Lateran Palace." Here it is evident that it is not a question of the regularity of the parish, but that the regular patronage over the secular parish had been a matter in the past; but, according to the very legal concepts, and those frequently cited, e.g., S. R. Rota, in Brunnen., on Incorporation or Patronage, dated March 28, 1914 (Acta Apostolicae Sedis, vol. VI, p. 319 ss.), these two, patronage and incorporation, mutually exclude each other, so that the action regarding the regularity of the parish cannot stand after the invocation of said patronage. Furthermore, the Most Reverend Fathers have noted that in the aforementioned matters, there is no indication that the Apostolic Authority intervened in any way, without which neither Oppizzoni, nor anyone else, could have changed what had been established by the Supreme Pontiff with the force of special delegated powers.

5. Therefore, since it is evident from the facts, without any exception, that there is a decree, or a sufficient reason, from which the new secular condition of the disputed parish originated, and since it cannot be shown that said decree has ceased to be in effect up to the present day, or that said reason has lost its effect, it is clear that the action of the Canons Regular of the Lateran Palace can be based on no other foundation than the challenging of the validity or efficacy of the decree of May 20, 1806, mentioned above. However, such an action of nullity is, now, after 110 years, not permitted to be instituted by any law (cf. Decis. Sign. a. 1832 [XV] in Romana Circumscr. et appell., n. 5: "For we know in law that, without any distinction, all actions are extinguished after a period of thirty years"). Much more so, since it is abundantly evident, both from what has already been discussed and from what appears in the records, that the Canons Regular of the Lateran Palace have, on several occasions in the past, with words and deeds, ac-

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knowledged the full force of the decree in question, and that, as we have noted from the beginning, it has always been so firm and inviolable, that it has never given rise to any objection, and that it governs and regulates, even today, the entire state of the parishes of Bologna, together with others established at the same time. It is sufficient to allude to the fact that in the year 1823, the Canons Regular of the Lateran Palace obtained an Apostolic Rescript to recover the choir books abandoned in the church of St. John in Monte. But, if it is indeed established that they acquiesced in the past, to the norms of the very decree of Oppizzoni, dated May 20, 1806 (let us borrow the words used in a similar case in the decision of the Signatura in Centumcellae, on Restitution in integrum).

[*Latin ed. p. 381*]

381 Apostolic Signature, April 21, 1825 [of that year, p. 65]: "It is forbidden for judges to overturn 'that which has once pleased the actors.'" Cf. also decision CXXI, in Collect. Decis. Signaturae, years 1845-1854, § 8, 9: "Although such [decisions] may have been invalid and null, nevertheless, from subsequent acquiescence and acceptance, they acquire full authority against them." Having laid down these most valid reasons, it seemed to the Most Eminent Fathers that nothing should be added; however, after all has been said, a matter arises in this case that is contrary to their intention: namely, that knowledge of the validity and efficacy of the decree issued by the Apostolic Delegate in a matter undoubtedly pertaining to administrative order, such as the innovation of the status of parishes, which concerns not private rights but the public good, and indeed directly, especially in such grave and extraordinary circumstances, this knowledge, I say, should, without any difficulty, be referred, not to the Holy Roman Rota, but to the Sacred Congregations. But that the matter in question concerns not private rights, but the public good, is most clearly demonstrated, either by the fact that the Oppizzonian decree of May 20, 1806, is not only extended to all regular parishes in Bologna, but that the same is ordered by the Apostolic Delegate concerning them, which, in that most difficult time, almost all the Bishops of the Kingdom of Italy, as the records show, especially in the cases of Imola, Forlì, Faenza, etc., were obliged to establish in their dioceses, with the knowledge and without opposition from the Apostolic See, concerning the parishes abandoned by the Regulars, then dispersed. Therefore, regarding the question: "Should a commission be appointed in this case?" the Most Eminent Fathers in the Plenary Session on July 8, 1916, answered: "No." This decision of the Most Eminent Fathers was approved and ratified by His Holiness Pope Benedict XV, Divine Providence, in the same audience granted to the Most Reverend Cardinal Prefect. And thus it was published, etc.; not only, etc., but also to all, etc. Given at Rome, on August 8, 1916. I, Ubaldus Mannucci, Voter of the Signature. L. © S. VISA

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Nicholas Marini, of the Secretariat. Joseph adv. Fornàri, Notary.

[*Latin ed. p. 382*]

382 DIARY OF THE ROMAN CURIA, SECRETARY OF STATE. By means of letters from the Secretary of State, the Holy Father has deigned to appoint: September 4, 1916. — Monsignor Luigi Sincero, Auditor of the Holy Roman Rota, and the Reverend Father Raffaele of Saint Joseph, of the Discalced Carmelites, Consultors of the Sacred Congregation of Seminaries and Universities. — The Reverend Father Domenico Reuter, former General of the Conventual Minor Order, Consultor of the Sacred Congregation of the Index. September 13. — Monsignor Teodoro Valfré di Bonzo, Apostolic Nuncio to Austria-Hungary and titular Archbishop of Trebizond. September 22. — His Eminence Cardinal Diomede Falconio, Protector of the Nuns of the Patronage of Saint Joseph. October 4. — The Reverend Father Alberto Levarne, Secretary of the Apostolic Vicariate of Colombia. NOTICE. The Editorial Board of the "Pontifical Annuary" at the Secretary of State earnestly requests all Bishops, Prelate Colleges, Superiors General of Religious Orders, Rectors of ecclesiastical colleges, and all dignitaries belonging to the Papal Court to transmit in a timely manner the information and corrections necessary for the edition of the "Annuary" for the coming year 1917, in accordance with the circular letter of His Eminence Cardinal Gasparri, Secretary of State, dated July 15, 1915, and the specific instructions received at the time of appointments and promotions.

[*Latin ed. p. 383*]

Diarium Romanae Curiae 383

OFFICE OF HIS HOLINESS

By the tickets of His Eminence, the Reverend Monsignor, the Holy Father deigned to appoint:

Extraordinary Secret Chamberlains of His Holiness:

August 29, 1916. — Monsignor Luigi Camboni, of the diocese of Ozieri. — Monsignor Elia Lutzu, of the same diocese.

August 30. — Monsignor Ugo O'Reilly, of the diocese of Dromore. — Monsignor Emidio Gresele, of the diocese of Ascoli Piceno.

September 1. — Monsignor Domenico Marena, of the diocese of Sant'Angelo de' Lombardi and Bisaccia.

Extraordinary Chamberlains of Sword and Mantle of His Holiness:

October 14, 1914. — Mr. Gualtiero Van Waterschoot van der Gracht, of the diocese of Amsterdam.

August 10, 1916. — Mr. Marquess Raimondo de Dalmau y de Olivart, of the diocese of Madrid.

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August 28. — Mr. Giorgio Salleron, of the diocese of Versailles.

September 5. — Mr. Advocate Marcantonio Caracciolo del Leone, of Rome.

Honorary Chamberlains in Peacock Blue of His Holiness:

August 26, 1916. — Monsignor Alessio Cavallini, of the diocese of Padua.

August 29. — Monsignor Anthony Isoleri, of the archdiocese of Philadelphia.

September 2. — Monsignor Enrico Bechern, of the diocese of Colonia.

Honorary Chamberlain of Sword and Mantle in regular service of His Holiness:

September 2, 1916. — Mr. Luigi Bersani.

[*Latin ed. p. 384*]

Acts of the Apostolic See - Official Commentary 384. To the Secret Honorary Chamberlain of His Holiness: September 13, 1916. — Monsignor Luigi de Marco, of the archdiocese of Chietti. To the Honorary Chamberlain outside the city of His Holiness: September 13, 1916. — Monsignor Giuseppe Vilaplana Jové, of the diocese of Lérida. NECROLOGY. September 10, 1916. — Monsignor Giulio Alessandro Leone Bouissière, Bishop of Costantina and of Ippona. September 14. — Monsignor Antonio Maria Bonito, titular Archbishop of Assume.

[*Latin ed. p. 385*]

Annus T U I - Vol. VIII, November 3, 1916, No. 11. ACTA APOSTOLICAE SEDIS, Official Commentary. ACTA BENEDICTI PP. XV. APOSTOLIC LETTER. I. ERECTION OF A NEW APOSTOLIC VICARIATE OF HO-NAN ORIENTAL. BENEDICT XV, POPE. For the perpetual memory of the matter. We are deeply rejoiced to learn that the Catholic faith has spread so widely into distant regions, that the vine of the Lord requires and demands new laborers there. And, for the highest office divinely entrusted to Us, We gladly accept and welcome the opportunity to provide for the spiritual needs of the faithful at the earliest possible time. Therefore, having been informed that, within the Apostolic Vicariate of Ho-nan Southern, the students of the Seminary of Milan, entrusted to the Foreign Missions, where, due to their diligence and industrious efforts, the western region has been separated for five years and entrusted to other equally active Missionaries, the religion of Christ, with the help of God, is happily increasing day by day; We, in order to assist in such growth, have decreed to establish a new Vicariate within the boundaries of that Mission. Wherefore, having carefully considered all the circumstances, with Our Most Reverend Fathers, and with the certain knowledge and mature deliberation of Our own Apostolic authority, by the present document, We separate and distinguish from the Apostolic Vicariate of Ho-nan

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Southern the civil prefectures, commonly called Kueitefu, Cengcioufu, and Kaifongfu, and We establish them into a proper Apostolic Vicariate.

[*Latin ed. p. 386*]

386 Acta Apostolicae Sedis - We establish an official commentary of the Apostolic See with all and singular rights, honors, privileges, and indulgences pertaining to such Apostolic Vicariates, and We decree that it be named "de H o-nan orientalis." We wish that the civil Sub-Prefectures of "Kaifongfu," namely "Juciou, Singtchenghsieng," and "Mihsieng," be excluded from this latest Prefecture, and that the newly established Vicariate of H o-nan orientalis be entrusted to the care and labor of the Seminary of Alumnorum from the foreign Missions of Mediolani, who have earned merit only there.

We decree that these present Letters shall always be firm, valid, and efficacious, and shall fully and completely produce and obtain their intended effects, and that those to whom they pertain, or who may pertain to them in the future, shall fully and completely be supported by them in all things; and that, accordingly, matters concerning these things shall be judged and decided by any ordinary or delegated judge, and that anything to the contrary, whether knowingly or unknowingly, shall be considered null and void if any attempt is made to alter these provisions.

Notwithstanding Our own and the regulations of the Apostolic Chancery regarding matters of law, other Apostolic Constitutions and Decrees, and all other things whatsoever to the contrary.

Given at Rome, near St. Peter, under the Fisherman's ring, on the twenty-first day of the month of September, in the year 1916, the third year of Our Pontificate.

By special mandate of the Most Holy Cardinal GASPARRI, from the Secretariat of State.

II. IT IS DECREED THAT A COIN BE ISSUED FOR THE COHORT OF SOLDIERS, WHO ARE COMMONLY CALLED "GENDARMES OF THE POPE."

BENEDICT XV.

For the perpetual memory of this event.

— Since, on this very day, the one hundredth anniversary is completed from the time when Our blessed predecessor, Pope Pius VII, instituted the Cohort of soldiers, which, at the beginning, was commonly called "dei Carabinieri Pontificii," and which now, with a changed name, is called "dei Gendarmi Pontificii," We do not wish to let this auspicious day pass without publicly expressing Our particular benevolence towards them. We recall with a grateful and pleasant spirit how highly that Pontifical Cohort

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has earned praise in the protection of the civil community and the security of the Roman Pontiffs; in the performance of their duties...

[*Latin ed. p. 387*]

The acts of Saint Benedict, Pope XV, paragraph 387, attest to the fact that, just as Our predecessors did, so too have We, in the present circumstances and condition of times, clearly demonstrated Our fidelity and virtue. Therefore, rejoicing at this event, We have ordered that a medal be struck, the obverse of which bears Our image and name, and the year of Our pontificate; the reverse, however, displays the heraldic insignia of Pius VII and Ourselves, with the Keys and Tiara superimposed, and with two branches, one of oak and the other of laurel, attached and curving upwards in the form of a crown, and with the following titles inscribed around the edge: "COHORS MILITUM PONTIFICUM," "FOR FAITH AND VALOR," with the year 1816 on the left and the year 1916 on the right, with a space between each title. We grant, moreover, that Our beloved sons of the Pontifical Cohort, whether leaders or soldiers, who today deserve a stipend, may wear this medal, attached to a silk ribbon of blue color, with yellow edges, on the left side of their chest, for the commemoration of these secular festivities; and We benignly desire that those who legitimately use it may, for those who have served a full year in the military, receive the same benefits. We are confident that this, Our principal intention, whereby We honor the soldiers for their contribution to the security of Our buildings, will indeed ensure that they, both in the integrity of their faith and morals, and in the diligence and skill with which they perform their duties, will shine no less brightly than those who, in times past, served under Our admirable predecessors from the same Cohort. Despite any opposition. Given at Rome, near Saint Peter's, under the Fisherman's Ring, on the twenty-second day of the month of October, in the third year of Our pontificate. P. CARD. GASPARRI, Secretary of State. CONCERNING THE SANCTUARIES OF AQUILAE S. MARIAE AD RUPES, AND OF S. BERNARDINI IN SENENSIS, BELONGING TO THE MINOR ORDERS, TO BE PLACED UNDER JURISDICTION. BENEDICT | P. P. XV. The Sanctuary of Santa Mariae ad Rupes, located near the valley of Suppentonia, which Our predecessor, the blessed Pope Pius X, called a minor basilica, together with its adjoining buildings, namely the monastery and the church, has been, since 1912, according to the chirograph of the same predecessor, under the dominion and...

[*Latin ed. p. 388*]

388 Acta Apostolicae Sedis - Official Commentary: the property has passed to the Apostolic See; and the custody and administration thereof have been permanently entrusted to the Brothers of the Order of Friars Minor from the Saxon Province of the Holy Cross. This is done according to

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the law, so that the minister of that province may, in its place, perform the duties of administering that property in the service of the Apostolic See. Indeed, since we have learned that the provincial minister has earnestly requested the Superior General to allow him to relinquish the administration of that basilica, monastery, and church, it appears to us to be a favorable opportunity, especially because religious discipline must be maintained there with greater piety, along with the increase of popular devotion, to replace him with the Provincial Superior of the Order for Saxony. Therefore, by these letters, issued by Our own authority and with full knowledge, We decree that the Sanctuary of Saint Mary of the Rocks, together with the monastery and church contained therein, shall henceforth be immediately subject to the jurisdiction of the General Minister of the Brothers Minor; and We grant to him all rights and privileges that have been granted to that sanctuary and to those buildings by the minister and the Province of the Brothers Minor of Saxony. - For other and equally important reasons, We decide the same regarding the minorite house in L'Aquila, in Abruzzo, together with the attached church of Saint Bernard of Siena, where his sacred remains rest. Therefore, in this case as well, only the General Minister of the Order shall have jurisdiction. He shall appoint a member as Prefect to both the monastery and the sanctuary of Saint Mary of the Rocks and Saint Bernard of Siena, with the title of President; and he shall add to him, for various ministries, as many priests and laymen as the circumstances require; all of whom shall be delegated by any province of the Order, according to the usual practice in all monasteries of the Brothers Minor that are directly under the jurisdiction of the General Minister of the Order. And this We wish and command, notwithstanding any contrary provisions. Given at Rome, near Saint Peter, on the nineteenth day of the month of September, in the year 1836, the third year of Our pontificate. BENEDICT XIV.

[*Latin ed. p. 389*]

Acta Benedicti PP. XV, 389. EPISTOLA I ad LUDOVICUM Nazarium Becensem, ceterosque DENSIS: De mutua concordia inter R. E. Presbyteros, Gardiolatos, Archiepiscopos, Episcopos et Bégins, Archiepiscopum Regionis Quecana, commendatur.

Dilecti Filii nostri, Venerabiles Fratres, salutem et apostolicam benedictionem.

Commissi sumus divinitus officio pascendi dominicum gregem, et vehementer impellimur, ut, si qua inter Ecclesiae filios discidia commoveantur, unde pacem mutuamque coniunctionem in discrimen vocari contingat, ea quoquo pacto componere pro viribus studeamus. Quid enim tam rei catholicae perniciosum, aut quid a divinis praeceptis Ecclesiaeque principiis tam alienum, quam christifideles inter se studiis partium dividi? Siquidem regnum in se ipsum divisum desolabitur: et

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christianus populus, si quando cor unum et anima una esse desierit, ab illa sensim caritate desciscit, quae non modo est vinculum perfectionis, sed christiani nominis praecipua ac prima lex, cum eam humani generis Redemptor discipulis suis veluti testamento commendaverit, eandemque verae fidei signum et argumentum fore edixerit: "By this shall all men know that you are my disciples, if you have love one for another." Accedit quod dissensiones eiusmodi, praeterquam quod Christi Domini spiritu longissime absunt, id quoque misere efficiunt, ut eos qui foris sunt a catholica fide magis magisque avertant, cum, contra, fraterna catholicorum consensio et caritas magno semper fuerit externis ad participandam eorum societatem invitamento.

Itaque in summa sollicitudine, venerabiles Fratres, sumus ob ea, quae inter catholicos istius regionis, quorum alioqui fides et pietas apud omnes pervagata est, abhinc aliquot annos exarsere simultates; quas quidem cotidie ingravescere et publicas iam factas esse, tum pluribus certisque argumentis comperimus, tum etiam a vobismetipsis edocti sumus.

[*Latin ed. p. 390*]

390. — Acta Apostolicae Sedis - Commentarium Officiale ... ●—— ● » Quidnam vero sit causa huius discordiae, plane patet. Cum enim ex catholicis Canadensibus alii, ex Gallis oriundi, gallico sermone, alii, etsi varia ab stirpe profecti, anglico utantur, idcirco inter se contenderunt. Franco-Canadenses, quos vocant, recte omnia in sua QuebeCensi provincia procedere affirmant; sed in Ontario aliisque locis, ubi suae stirpis familiae haud ita paucae vitam degunt, et sermone anglicus, provinciae lege, in usu est, non aequo haberi sermonis gallici rationem nec in ministeriis sacris nec in separatis catholicorum scholis, queruntur. Volunt igitur, ita, ut pro catholicorum utriusque linguae numero, sacri ministri ecclesiis praeficiantur, ut, ubi Franco-Canadenses sint numero plures, ibi sacerdos suae linguae ac stirpis sibi constituitur; in paroeciis autem, in quorum finibus ii aliquo numero vivant, in praedicatione verbi aliisque ecclesiasticis officiis sermo gallicus item atque anglicus adhibeatur; ut denique in separatis scholis, eo modo, qui, suo ipsorum iudicio, plenior aptiorque videatur, pueri gallicum sermonem doceantur. Contendunt ex adverso alii, in Ontario ceterisque linguae anglicae provinciis catholicos pauciores esse quam acatholici, tametsi Francocanadenses catholicis alterius linguae praestant alicubi numero; in designandis vero ecclesiae administris rationem ducendam quoque esse tum eorum qui ad veram religionem converti possint ac debeant, tum linguae quae provinciae sit propria, tum etiam aliarum locorum personarumque condicionum, neque inspecta tantummodo maiore catholicarum stirpium parte rem dirimi posse. Addunt, haud raro sacerdotes Francocanadenses anglicum sermonem aut minus probe noscere, aut non optime loqui, aut suae gentis linguae postponere: ex quo accidere ut in ministerio exercendo

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vel parum proficiant vel non eam praestent operam, quam locorum necessitas postulat. Ad scholas separatas quod attinet, si gallicus sermo sic traderetur, quemadmodum Franco-Canadenses poscunt, id rectae puerorum institutioni in sermone anglicio, provinciae proprio, graviter obfuturum, non sine parentum offensione, qui cogentur vel sumptu suo mancam supplere institutionem ut filii anglicam linguam perfecte absoluteque adderent, vel, catholicis scholis posthabitis, filios ad publicas seu neutras mittere, quod omnino nefas; ea denique institutionis ratione facile excitam iri gubernatorum invidiam in scholas separatas, quas si de communis utilitatis negligentia argui liceret, in discrimine versari posset ipsum legis de propriis catholicorum scholis beneficium, quod incolume servari religionis quamplurimum interest. Atque utinam haec omnia sedate placideque disceptarentur! Verum, quasi in causa sit gens vel religio ipsa, in diariis et ephemeridibus, in...

[*Latin ed. p. 391*]

391 The acts of Pope Benedict XV, in books and writings, in private conversations and in public discourses, are so vehemently debated that, with minds increasingly inflamed and with animosity, a division between the two sides becomes daily more unyielding. To such an extent that a remedy must be applied, it pleases Us, venerable Brothers, whom We know to be most closely united with Us, to communicate Our deliberations with you. Know that you will be doing what is most pleasing to Us, if you cease all contention, so that, with the gifts of peace and charity, unity and concord among the faithful may be restored to your care. We echo the words of the Apostle Paul: "Now I beseech you, brethren, by the name of our Lord Jesus Christ, that you all speak the same thing and that there be no schisms among you: but that you be perfect in the same mind and in the same judgment." Supporting one another in charity, let us be concerned to preserve the unity of the spirit in the bond of peace. For we are children of the same Father, partakers of the same divine table and the same sacraments, called to the same beatitude: baptized into one body... and made to drink of one Spirit. For as many as have been baptized into Christ, have clothed themselves with Christ: ... where there is neither Greek nor Jew, circumcision nor uncircumcision, barbarian nor Scythian, slave nor freeman, but Christ is all, and in all. 1 2 3 1 5 If the faithful of this region, by reason of families and lineages, do not share the same sentiments, and if the passions of the flesh cause distress, then, as Augustine urges, the bounds of charity must be extended. If, moreover, not all things can be arranged equally and solely by the law of charity, then there are in the Church, placed by the Holy Spirit, those who judge, and whose judgments the faithful ought to obey, if they wish to be and to be considered Christians, and not merely public men. 6 Therefore, it is the duty of the Bishops, especially those who preside over the dioceses where the contention burns most fiercely, to resolve the

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controversies that exist among the Canadian Catholics regarding the rights and use of both languages in sacred buildings and in Catholic schools. We therefore urge them to come together, to consider this very serious matter diligently, and to determine and decide upon what is just and fitting, with the sole purpose of the cause of souls and their salvation. And if, for any reason, their judgment cannot be defined and the matter concluded, they should refer the matter to this Apostolic See, which will examine the case according to the laws of justice and charity. 1 2 3 1 Corinthians 1:10. Ephesians 4:2-3. 1 Corinthians 12:13. Colossians 3:8-9. Augustine, *Sermo LXIX*, Migne, *P.L.*, vol. 38, col. 440.

[*Latin ed. p. 392*]

392 The Acta Apostolicae Sedis – Official Commentary resolves this matter in such a way that the faithful may preserve mutual peace and goodwill, as is fitting for the saints, in the future. Meanwhile, however, newspapers and periodicals, which boast of being Catholic, ought not to foment discord among the faithful, nor should they anticipate the judgment of the Church; those who write in them, if they remain patient and modest, if they willingly devote themselves to calming minds, will render their profession entirely worthy. Furthermore, let the faithful abstain from discussing this question in public assemblies, in meetings, and in Catholic gatherings of their own name; for it is almost impossible that speakers will not be swayed by partisan zeal, and will not add fuel to such a vehement fire. What we prescribe to all with a paternal spirit, let the clergy know first of all. For since priests ought to be and must be the form of the flock in spirit, it is entirely unbecoming for them to be tossed about in this tempest of emulation and envy. Therefore, we earnestly exhort them to excel others, not only in moderation and kindness of spirit, but also in reverence for the Supreme Pastor, and finally, in obedience, especially in matters pertaining to justice and ecclesiastical discipline, and concerning which the Church rightfully decrees. It would greatly benefit the spiritual good and concord of Catholics of both languages, if the priests spoke both languages. Therefore, we were wonderfully delighted when we learned that in some seminaries this practice has been introduced, so that the clergy learn to speak both French and English: which we certainly desire to be an example to others. In the meantime, let the priests who are engaged in the sacred ministry strive to have proficiency and experience in both languages, and, having removed all envy, they should use one language or the other, as the necessity of the faithful demands. But since the controversy concerning the schools which Catholics have in Ontario is more acute, it seems proper to address it directly. No one can deny that the governors of Ontario are justified in demanding that the English language, which is the language of the province, be taught to children in schools; and likewise, Catholics in Ontario are justly entitled to demand that in separate schools,

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it be taught so perfectly that their children are in the same condition as non-Catholic children who attend public schools, and are not thereby less prepared to enter higher schools or to attain civil offices. Nor is it to be denied that Franco-Canadians, who inhabit the same province, have the right to demand, with due regard, that the French language be taught in the schools which their children attend to some extent; and indeed, they cannot reasonably be blamed for caring about this matter for themselves and for their own. However, let Catholics in this region remember that the greatest interest of all is that Catholic schools be maintained, and that they be maintained for no other reason.

[*Latin ed. p. 393*]

From the acts of Pope Benedict XV, 393, it is brought to light that, while children are being instructed in the knowledge of letters, they should also learn to safeguard the Catholic faith, and openly profess the doctrine of Christ, and also to observe the law piously; for this is demanded both by piety towards children, and by the good of religion, and indeed by the very cause of Christ. However, it is clearly evident that if we are speaking of schools subject to public authority, that the matter cannot be defined without the authority's consent. Nevertheless, this in no way prevents that the sacred pastors, for the sake of their care for the salvation of souls, with diligent and active effort, may strive to ensure that counsels of moderation may prevail, and that what is equitable and just may be granted to each party. Furthermore, venerable brothers, trusting in your faith and in your native land, and knowing you so well, and mindful of your duty, and concerned to render an account to the Divine Judge, we are certain that you will leave no stone unturned in order to remove the damage and restore peace. Therefore, let your thoughts and concerns be directed towards this end, that all may be one, and that they may be made perfect in one, as the Divine Master recently taught and prayed, before suffering death on the Cross for us. Let the words of the Apostle Paul dwell in the hearts of your faithful: "One body and one Spirit: as you are called in one hope of your calling." "One Lord, one faith, one baptism." "One God and Father of all, who is above all, and through all, and in all us." In this mutual union, let the faithful be kind to one another, merciful, forgiving one another, even as God in Christ forgave you. Meanwhile, as a testament to the reconciling and paternal charity of Our own, We impart from the heart Our apostolic blessing to you, beloved sons, venerable brothers, and to the clergy and people of your respective dioceses. Given at Rome, near the blessed Peter, on the 12th day of September, in the third year of Our pontificate. BENEDICT P. P. XV 1 2 Eph., IV, 4-6. Eph., IV, 3°2. VIII mens septem-

[*Latin ed. p. 394*]

394 Acta Apostolicae Sedis - Official Commentary

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TO FRANCIS, esteemed Priest of the Most Holy Roman Church, Cardinal of Bettinger, Archbishop of Munich and Freising: In response to the letters which you sent, observing the cause of his concern, upon the return of the anniversary of his pontificate.

Beloved Son, greetings and the apostolic blessing.

The singular study of piety and concern shines forth in the most humane letters which you sent upon the return of the anniversary of Our pontificate. From these, We have learned not only that you share with Us the sorrow, arising from the harshness of these times, but also that you strive to alleviate it in Us. You write that, while We have striven to mitigate, as much as possible, the many and varied pains of war during this biennium, We have certainly done so with all Our strength, and nothing is more fitting for the apostolic office. In this, if We have achieved anything, all the credit must be given to the benevolent God. Indeed, We must not despair of the common salvation, especially if We invoke the great Mother of God in a fitting manner, whom We have recently decreed to be invoked as Queen of Peace throughout the Christian world. This, it is fitting that Stadtamhof should strive for with particular zeal, of which We have recently declared Her to be the special Patroness. Furthermore, We thank you for the letters and We depend on your paternal charity towards Us. As a pledge of divine blessings, We impart to you, beloved Son, and to all those entrusted to your care, Our most loving blessing in the Lord.

Given in Rome, at St. Peter's, on the tenth day of the month of September, in the third year of Our pontificate.

BENEDICT XV

TO PETER, esteemed Priest of the Most Holy Roman Church, Cardinal Maffi, Archbishop of Pisa, to ALPHONSUS MARY, esteemed Priest of the Most Holy Roman Church, Cardinal Mistrangelo, Archbishop of Florence, and to the other Archbishops and Bishops of Etruria, assembled in Pisa for the occasion of the annual meeting.

Beloved Sons and venerable Brothers, greetings and the apostolic blessing.

What is being done, and what is the purpose of your concerns, which have caused you great sorrow in recent days, We wish to know.

[*Latin ed. p. 395*]

The Acts of Pope Benedict XV, Book 15, page 395, show that we have understood, from the letters you recently sent us from Pisa, that you are increasingly concerned. Indeed, these are times that require vigilance and fruitful endeavors, especially from bishops. However, whatever the circumstances may be, it is not fitting to let your spirit be discouraged. For He who founded the Church also nourishes and protects it. Therefore, the Church

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should not fear; it fears for its faithful children, and it sees with sorrow those people who, the more they seem to stray from it, the more it sees them perish. Furthermore, you know that all things work together for good to those who love God. We thank you from the bottom of our hearts for your most beloved letter and for the services you have rendered, and we impart, with paternal affection, the apostolic blessing to you, our beloved sons and venerable brothers, and to the clergy and to the people entrusted to your care. Given in Rome, at St. Peter's, on the 14th day of October, 1916, in the third year of Our Pontificate. BENEDICT XV.

To the Reverend Father LUDOVIC, THEISSLING, General Master of the Dominican Order, concerning the solemn observances for the seven hundredth anniversary of the Order's legitimate confirmation.

Beloved Son, greetings and the apostolic blessing.

In the assembly of the members of the Tertiaries of Saint Dominic, which was held three years ago in Florencia, and to which We were also present, along with many bishops, it was decided, with our approval and encouragement, that a convocation of a similar nature, but of much greater importance, should be held in Bologna to celebrate the seven hundredth anniversary of the Dominican Order's legitimate confirmation.

We did not then suspect what God had in store for Our person in the near future; but we seemed to be drawn, for certain reasons proper and peculiar to us, to celebrate this anniversary, since we were, as it were, guardians and custodians of the sacred remains of that Patriarch, and since, among his students who had been enrolled in his discipline, we had one of our own.

Now, however, it has happened, by the inscrutable design of God, that, as this secular anniversary approaches,

[*Latin ed. p. 396*]

396 Acta Apostolicae Sedis - Since we are placed, not in the seat of Peter, but in the very chair of the Apostles, it is fitting that, besides our private concerns, we should give some recognition to the immortal merits of the Church, and that we should offer some special testimony of apostolic charity to the esteemed Order. Indeed, our predecessor, Honorius III, inspired, as it seems, by the divine Spirit, foretold the glorious praises of the Dominican family: for, having established the Order nine years previously by his constitution, published on the twentieth day of December in the year 1216, he ratified it and, on that very day, again addressed the religious fathers with apostolic letters, saying: "We confirm your Order, brothers, who will be future champions of the Faith and true lights of the world." And how truly he spoke, the events which have occurred since then, up to our own time, clearly demonstrate. For, with regard to their efforts and struggles for the Faith, it is evident that there have never been any who have repelled the enemies of Christian wisdom with greater fortitude or

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constancy. Before all, the Albigenses, whom, indeed, they vanquished with divine inspiration, how boldly they broke their audacity! Then the Gatharians and Patarins, then the Hussites and Novatians, and then all those who followed, against whom they fought so strenuously and so learnedly, by teaching, preaching, and writing! And it is not rare that some of them have consecrated their profession of the Faith with a profusion of blood: let Peter the Martyr be an example for all, whom the Church of Verona especially glories in. But who is ignorant of the zeal with which they have striven to promote and defend the integrity of the Faith and of Christian life? And as for the other institutions which they have prudently established for this purpose, such as the College of Sodalities under the most holy name of Jesus, the sodality under the august Sacrament, and the Third Order of the Dominicans, it is clear that the Church has received from them that great "defense against heresies and vices" which is contained in the Rosary of Mary. - Nor have they been less diligent and useful in the propagation of the Church's ends. We know that, from the very beginning of the Order, their sacred expeditions to the barbarians of Asia and Upper Africa have been very fruitful, and especially in Europe: particularly, they have been salutary to the Poles and Hungarians. And as soon as America was opened, the members of the Order considered it a new and immense field for their labors, especially those from Spain. And there, they have exerted themselves so much at all times, that they have reaped abundant fruits for the salvation of souls, and have also attained great glory. Among the most illustrious are the names of Louis Bertrand and Bartholomew Las Casas, the former of whom, by the splendor of his virtues and the magnitude of his miracles, renewed the examples of the Apostles, the latter of whom, not only freed the Indians from the servitude of Satan, but also...

[*Latin ed. p. 397*]

The acts of Pope Benedict XV, page 397, show that, by protecting those unjustly oppressed and defending human dignity, he rightly earned a place among the defenders of human dignity.

Finally, what most clearly and purely indicates sincere and uncorrupted faith is the unwavering and perpetual devotion of the Dominican Order to this Apostolic See. For, whenever the authority of the Pope was challenged by the arrogance of secular power, it was always the Dominicans, above all others, who were most zealous in defending the Pope, and who suffered indignities because of their fidelity. And whenever the rights of the Roman Pontificate were to be defended or upheld, the Dominicans were always the first to come forward to defend or illustrate them. Furthermore, as long as the memory of the Cathars of Siena remains, it will be evident that the Dominican family has a special bond with the Apostolic See. And indeed, what they have brought to light thus far, primarily through their teaching, is certainly not something that we doubt. It is well known to all how

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diligently they have always devoted themselves to the best studies, which truly contribute to the progress of the human race towards a good life; and it is not necessary to mention the members who, endowed with talent and a vast knowledge, have entrusted their weighty writings to immortality. Who, immersed in profound literature, would not marvel at the works of Albertus Magnus, Antoninus, and Caietanus? Who, devoted to rigorous discipline, would not achieve great things, would not love with all his heart, would not follow Thomas Aquinas with the utmost piety, whose doctrine, by the grace of divine providence, has illuminated the Church, confirming the truth and refuting all errors? And to this Order, praise is due not only for nurturing the Angelic Doctor, but also for never, not even in the smallest detail, deviating from his teachings.

Now, to this light of learning, we must add a light that is even more divine: holiness. For many members of this religious family, from its very beginnings to this day, and others even more distinguished, have been taken to heaven by their innocent lives, where, like stars, they illuminate the Christian people towards all excellence of virtue. The choir is, in a way, led by Father Dominic himself, and after him, a wonderful variety of lights shine forth: Thomas, or Ferrerius, or the canon law compiler, or the Virgin of Siena, or that one who has so gloriously honored the southern shores of America with her sanctity. Those who consider these things will not be surprised that there has always been a great esteem for the Dominican Order within the Apostolic See, as evidenced by the fact that four of its members have attained the highest sanctity. Indeed, the Roman Pontiffs have often sought out members of this Order, appointing them to the highest positions and entrusting them with the most important duties. And certain offices, which are essential for the protection of the faith, are...

[*Latin ed. p. 398*]

398 Acta Apostolicae Sedis - Official Commentary: Institutions have been established for this Order, so that, in order to commend the integrity of its discipline and doctrine, they may be perpetually attributed to it. We, therefore, beloved Son, considering these things, first offer immense thanks to the Author and Giver of all good things, God, that He has, through His benevolence, promoted the institution of your Father until now, and we offer prayers that He may also, in the future, wish to foster and aid it in a similar manner. Then we congratulate you and your companions, as many as this threefold Order encompasses, from the heart; and we urge you to persevere so that you may prove yourselves worthy sons and heirs of your ancestors. But we consider it a good omen that you have undertaken the highest office of the Order during this auspicious celebration; and we hope for a prosperous course for your ministry and a fruitful one for the Church. Furthermore, that these secular celebrations, which occur on the twentieth day of the coming December, may be celebrated with greater joy

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and spiritual benefit, We wish to augment them with papal indulgences. Therefore, to all who shall visit any church or public oratory of the first, second, or third Order of Saint Dominic, where these celebrations are held for three days or on that very day, provided they fulfill the customary conditions, We grant a plenary remission of sins once. Furthermore, We grant that, not only on the day of the secular celebration, but also on other days of supplication, where this will take place, the Mass of Saint Dominic may be recited. In the meantime, as a pledge of heavenly gifts and a witness of Our paternal benevolence, We impart to you, beloved Son, and to the entire Dominican family, Our most loving apostolic blessing. Given at Rome, near Saint Peter's, on the twenty-ninth day of the month of October, in the year 1916, in the third year of Our Pontificate. BENEDICT XV.

[*Latin ed. p. 399*]

The Most Holy Congregation of the Holy Office. 399. ACTS OF THE MOST HOLY CONGREGATIONS. SUPREME HOLY CONGREGATION OF THE HOLY OFFICE. DECREE: SOCIETIES PROMOTING AND FOSTERING RELIGIOUS VOCATIONS ARE GRANTED INDULGENCES. The Most Holy Lord, Our Lord, Pope Benedict, of Divine Providence, Pope XV, during an audience with the Reverend Father General Commissary of the Holy Office, on Friday, the 7th of September, 1916, deigned to graciously grant that all and each Indulgences and privileges of Masses, which, by decree of this Supreme Holy Congregation, dated the 29th of May, 1913, under the pontificate of Pope Pius X, were extended to Societies promoting and fostering ecclesiastical vocations, already established or to be established, shall be extended to similar Societies, promoting and fostering, for each Order, Congregation, Institute, of both sexes, religious vocations and admissions to novitiates, already canonically established or to be established in the future. This present decree is valid forever, without any need for a Brief. In contradiction to anything to the contrary notwithstanding. Given in Rome, on the 11th of October, 1916. R. CARD. MERRY DEL VAL, Secretary. L.©S. A Fr. D. M. Pasqualigo, O.P., General Commissary of the Holy Office.

[*Latin ed. p. 400*]

Acta Apostolicae Sedis - Official Commentary 400

SACRED CONSISTORIAL CONGREGATION

DECREE CONCERNING THE NOMINATION OF CANDIDATES FOR THE EPISCOPAL OFFICE IN THE UNITED STATES OF AMERICA.

The reasons for nominating candidates for the episcopal office, which prevail in these United States of America, and the procedure by which

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they are proposed, although having gradually improved through repeated studies by the Baltimore Council and provisions of the Holy See, do not yet seem fully to meet the present needs of the Church.

Indeed, in the present state of affairs, when a see becomes vacant, in order that a successor may be appointed, first the diocesan consultors and permanent pastors should meet, and then the Bishops of the province; and if the matter concerns the election of an Archbishop, the individual Metropolitans are also usually consulted. Such precautions are most prudent, as they concern a matter of the utmost importance; but, in order that these may be observed, a considerable amount of time must elapse. Moreover, when the matter is finally to be brought before that Church "to which," because of its greater preeminence, "all Churches" must be subject, according to the well-known words of St. Irenaeus, a new delay and slowness are introduced into the provision of the episcopal see, whereas the fundamental law of the Church requires this. For the Supreme Pontiff can only pronounce judgment after the matter has been examined, any doubts resolved, and, therefore, often after new information has been requested. This, indeed, if it always and everywhere requires a suitable length of time, in such a vast distance and in the most extensive of the United States of America, cannot be avoided.

For these reasons, it happens that the vacancy of a diocese, to the detriment of the faithful, is prolonged beyond what is reasonable, to the detriment of ecclesiastical discipline and the well-being of the diocese. To this is added the fact that it does not seem prudent to expedite the consideration of a matter of such importance, which is scarcely second to any in the Church, except under urgent and compelling necessity; whereas, on the other hand, when a diocese is vacant, even if...

[*Latin ed. p. 401*]

401. The Holy Consistorial Congregation, although the time for this was uncertain, yet certain in its outcome, considered it better to do this in a timely manner, and at least generally to inform the Apostolic See of the names of those whom the Bishops consider worthy and suitable for the pastoral office. Therefore, in order to avoid these and other considerable inconveniences, of which mention has already been made, and to proceed with greater deliberation and tranquility in this important matter, it was deemed expedient to establish a new and more suitable norm for proposing candidates to the Apostolic See for the episcopal office, according to what had already been usefully proposed elsewhere. After previously consulting with the Bishops of the United States on this matter, and after it was determined that the vast majority were in favor of the new discipline, while some proposed certain amendments, which were considered by the Most Holy Fathers of this Congregation, and, as far as was permissible, by the Supreme Pontiff; after all matters had been carefully considered, the

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same Most Holy Pope, Benedict XV, approved this new norm, or law, for proposing candidates for the episcopal office, and decreed that it should be made public and promulgated, according to the articles that follow:

1. At the beginning of Lent of the coming year, 1917, and then every two years, at the same time, all the Bishops shall submit to their Metropolitan the names of one or the other priest, whom they consider worthy and suitable for the episcopal ministry. Nothing prevents priests from outside the diocese, or even from another province, from being proposed. However, it is strictly required that the person who proposes know the candidate personally and through prolonged acquaintance. Along with the name, they shall also indicate the candidate's age, place of origin, and current place of residence, and the office which he currently holds.

2. However, before determining whom to propose, both the Archbishops and the Bishops shall consult with diocesan advisors and permanent pastors, in the manner established below, so that they may indicate a priest whom they consider, above all others, worthy and suitable in the sight of the Lord for the care of the Christian flock in some diocese. But:

a) The consultation shall be made with the advisors and pastors, not in a convened assembly, but individually, giving each a serious obligation of secrecy, and under the law of destroying, if anything has intervened in this matter, any written communication.

b) The Bishops shall not disclose the outcome of their deliberations to anyone, except perhaps in a meeting of Bishops, as will be explained below.

3. The Bishops may also consult other prudent men, even from the regular clergy, both for proposing candidates and for examining the *Acta* [records] of some.

[*Latin ed. p. 402*]

Acts of the Apostolic See - Official Commentary 402. It is permissible to inquire about the qualities [of candidates], but adhering strictly to the rules mentioned above in sections a) and b) of Article 2. 4. The Bishops may, in both cases mentioned in Articles 2 and 3, follow the procedure outlined, but they are not obligated to do so, rendering an account of this matter only to God. However, the names of one or the other priest whom the Bishops propose, according to Article 1, shall be disclosed to no one whatsoever, except to the Archbishop. 5. After receiving the indications of the suffragan Bishops regarding the candidates, the Archbishop shall add his own; and he shall prepare a list of all the candidates in alphabetical order, noting the proposers, and shall transmit this list to each suffragan Bishop, so that they may conduct appropriate investigations into the qualities of those whom they do not personally know and about whom they have no certain knowledge. 6. The investigations must be carried out with the utmost discretion, as stated above in paragraph 3. The Bishops may, therefore, conceal the

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reason for the investigations and exercise caution and prudence. If they fear that the matter will become public, they should refrain from further inquiries. 7. After Easter, on a date and at a place determined by the Archbishop, all the Provinces, the Bishops together with their Metropolitan, shall meet for the selection of those who are to be proposed to the Holy See for the episcopal ministry. They shall meet without any formality, as if for a familiar gathering, so that all attention, especially from newspapers and periodicals, and from curious onlookers, may be avoided. 8. In the meeting, after invoking divine assistance, each Bishop, the Archbishop not excepted, shall swear, holding the Holy Gospels, to maintain secrecy, so that a more sacred bond may be established by which all are bound; and the rules for making the election shall be read. 9. Then, one of the Bishops present shall be chosen as Secretary. 10. After this, a moderated discussion shall take place, so that the most worthy and suitable candidates may be selected from among those presented. As if Christ himself were present and under his gaze, with all human considerations set aside, but with discretion and charity, with the supreme good of the Church, divine glory, and the salvation of souls as the sole focus, the discussion must be conducted and everything must be done; the very gravity of the matter demands it. And this must be done, as the piety and religion of all the prelates present absolutely require. 11. The candidates should be of mature, but not overly advanced, age; endowed with prudence in their actions, which should be confirmed by their experience in the ministry; adorned with the soundest and not common doctrine, and joined with due devotion to the Apostolic See; and above all, distinguished by honesty of life and piety. Attention must also be paid to the candidate's capacity in the administration of temporal goods, to his family situation, and to his...

[*Latin ed. p. 403*]

403. The Consistorial Congregation considers health and well-being. It is to be examined, with one voice, whether all those qualities are present which are required in the best of pastors, so that he may govern the people of God with fruit and edification.

12. After the discussion, at the direction of the Archbishop, the following procedure shall be followed:

a) Those who, by the unanimous consent of all the Bishops, or for some other reason, have been seen during the discussion to be removed from the list of candidates, shall not be called for a vote; the others, even the most esteemed, shall be called.

b) The vote shall be taken separately for each candidate, beginning with the first in alphabetical order.

c) All the Bishops, including the Metropolitan, shall be given three ballots for each candidate: one white, one black, and a third of another color. The white ballot shall be a sign of approval, the black ballot a sign of dis-

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approval, and the third ballot shall indicate abstention from giving a judgment, for any reason whatsoever.

d) Each Prelate, beginning with the Archbishop, shall deposit in a suitable urn the ballot which, before God, with whose conscience they are heavily burdened, they deem just for the priest who is being voted upon; the other two ballots shall be deposited in another urn, also secretly.

e) After all the votes have been received, the Archbishop, with the assistance of the Episcopal Secretary, shall count the ballots and their colors before all, and shall record the result in writing.

13. Once the voting is complete, it shall be permissible for the Bishops, if they so desire, or if any of them request it, to designate, by a new vote with a full or equal majority, which of those who have been approved is to be preferred. For this purpose, each Prelate shall write the name of the candidate he prefers on a slip of paper and deposit it in an urn; these slips shall be examined as described in paragraph 11, letter e.

14. Although the Most Holy Lord reserves the right to request, in the case of a diocese or archdiocese being vacant, from the Bishops or Archbishops, through a Roman Apostolic Delegate or in another manner, advice on the selection of a person who seems more suitable for governing that diocese; nevertheless, it will be permissible, indeed it will be good, for the Bishops themselves to offer, in the same assembly, at least some general indications as to which candidates they consider more suitable for governing a particular diocese, e.g., whether for a small, orderly, and peaceful diocese, or for one of greater importance, or one in which much needs to be ordered and created; whether for a diocese with a milder climate and located in the plains, or of another type, and so on.

15. The Bishop shall diligently note during the discussion what is said by each Prelate about each candidate; what discussion...

[*Latin ed. p. 404*]

404 Acta Apostolicae Sedis - Official Commentary: It is concluded that, finally, a result will be determined, either in the first scrutiny or in the second (if it is held), and what has been specifically stated according to article 16. 16. Before the Bishops depart, a report will be read, prepared by the Reverend Secretary, to verify the names proposed, the qualities of the candidates, and the votes obtained. 17. A copy of the proceedings will be sent to this Sacred Congregation as safely as possible, by the Apostolic Delegate, signed by the Archbishop, the Prelate in charge of secret matters, and the other Bishops present. The proceedings themselves will be kept by the Archbishop in the most secret archives of the Holy Office, but they will be destroyed after one year, or even sooner, if there is a danger of the secret being violated. 18. It will also be permissible for the Bishops, whether on the occasion of the proposal of a candidate or the va-

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cancy of a See, especially one of greater importance, to write letters to the Holy Congregation, in which they express their opinion regarding the qualities of the individuals, either in themselves or in relation to the provision of said See. These opinions will be taken into consideration, notwithstanding any contrary opinions, even those deserving of special mention, and at the discretion of the Apostolic See. Given in Rome, on the 25th of July, 1916. C. CARD. DE L A I, Bishop of Sabina, Secretary. L.©S. fThomas Boggiani, Archbishop of Edessa, Assessor. II PRATENSIS EXTENSION OF THE DIOCESAN BOUNDARIES. By the divine authority granted to them, the Roman Pontiffs have never ceased to manage, or even to change, those things concerning the administration of the Lord's land, which, due to new circumstances and the passage of time, they have seen to be more conducive to the spiritual well-being of the Christian faithful and to a more suitable comparison of benefits. Thus, Pope Innocent X, in order to finally put an end to the disputes between the Bishops of Pistoia and the Prelates of Prato at that time, by Apostolic Letters, the beginning of which was given on the 22nd of September in the year 1653, by our Redeemer,

[*Latin ed. p. 405*]

The Sacred Congregation Consistorial [S. Congregatio Consistorialis] erected a temporary prelature [tensem praepositurum] and assigned it to the proper diocese, uniting it permanently and principally with the diocese of Pistoia, but limiting the territory of the newly erected diocese to the walls of the city of Prato. This delimitation of the diocese of Prato, with the exception of the suburban parish of Saint Mary of Pity [S. Mariae a Pietate] which was later added, has remained the same to this day, although the municipality of Prato includes several other parishes that are under the jurisdiction of the Ordinaries of the dioceses of Pistoia and Florence; which was not pleasing to the citizens of the city of Prato. For it was easy to foresee that this state of affairs would cause difficulties, namely, that the people of a single municipality would be subject to three Ordinaries and three different ecclesiastical jurisdictions. Therefore, it happened that the cathedral chapter of Prato, the clergy, the people, and even the presidents of the same city, repeatedly urged the Apostolic See, especially in recent times, to consider this situation appropriately. To remedy these inconveniences and to ensure that the administration of sacred things would be carried out more appropriately within the framework of civil administration, the Most Holy Pope Benedict [SSmus Dominus Noster Benedictus], after hearing those concerned, with the advice of the Sacred Congregation Consistorial, following in the footsteps of his predecessors and graciously heeding the wishes of the citizens of Prato, with certain knowledge and mature deliberation, decided and decreed to extend the boundaries of the diocese of Prato to the entire territory of the city of Prato. And although the Most Eminent Archbishop of Florence [Emus Cardinalis Archiepiscopus

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Florentinus] was grieved that several parishes dear to him should be separated from his diocese, nevertheless, as soon as he learned that this was desired for the greater good, he readily agreed to the division and gave his consent with a willing heart. Wherefore, the Holy See, with the fullness of its apostolic power, and having provided for all that which seemed necessary, and having obtained the consent of those whose interests were involved, transferred the following parishes, which were previously subject to the diocese of Pistoia, that is, Saint Saviour of Vaiano [S. Salvatoris a Vaiano], Saint Martin of Schignano [S. Martini a Schignano], Saint Miniatus of Pupigliano [S. Miniati a Pupigliano], Saint Lucy of Monte [S. Luciae in Monte], Saint Michael of Cerreto [S. Michaelis a Cerreto], Saint Peter the Apostle of Figline [S. Petri Apostoli a Figline], Saint Mary of Humility of Chiesanuova [S. Mariae ab Humilitate a Chiesanuova], Saint Bartholomew of Coiano [S. Bartholomaei a Coiano], Saint Mary Assumed of Narnali [S. Mariae Assumptae a Narnali], Saint Peter the Apostle of Galciana [S. Petri Apostoli a Galciana], Saint Mary of Capezzana [S. Mariae a Capezzana], Saint Hippolytus of Piazzanese [S. Hippolyti in Piazzanese], Saint Martin of Vergaio [S. Martini a Vergaio], Saint Justus of Piazzanese [S. Iusti in Piazzanese], Saint Sylvester of Tobbiana [S. Silvestri a Tobbiana], Saint Blaise of Casale [S. Blasii a Casale], Saint Peter the Apostle of Iolo [S. Petri Apostoli a Iolo], Saint Andrew of Iolo [S. Andreae a Iolo], Saint Mary Magdalene of Tavola [S. Mariae Magdalenae a Tavola], Saint George of Castelnuovo [S. Georgii a Castelnuovo], Saint Martin of Paperino [S. Martini a Paperino], Saint Mary of C'àfaggio [S. Mariae a C'àfaggio], Saint Peter the Apostle of Grignano [S. Petri Apostoli a Grignano], Saint Mary of Succursu [S. Mariae a Succursu], Saint George of Colonica [S. Georgii a Colonica], Saint Mary of Colooica [S. Mariae a Colooica], Saint Peter the Apostle of Mezzana [S. Petri Apostoli a Mezzana]; and also the following parishes which previously belonged to the diocese of Florence, that is, Saint Lawrence [S. Laurentii].

[*Latin ed. p. 406*]

406 Acta Apostolicae Sedis - Official Commentary. The following churches are suppressed: S. Martini a Gonfienti, S. Ghristinae a Pimonte, S. Blasii a Cavagliano, S. Mariae a Filettole, S. Pauli a Carteano, S. Michaelis a Canneto, S. Leonardi in Collina, SS. Iusti et Clementis a Faltugnano, S. Martini a Fabio, SS. Andreae et Donati a Savignano, SS. Viti et Modesti a Sofignano; these are separated from the dioceses of Pistoria and Florentina, and are assigned permanently with their respective territories to the diocese of Prato, so that henceforth the boundaries of this diocese shall extend to the boundaries of the municipality of Prato, coinciding with them. As a recognition of this cession, the Cathedral Chapter of Prato shall annually offer to the Cathedral Chapters of Florentina and Pistoria ten pounds of wax on the feast day of each titular saint. To ensure the

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execution of what has been decreed here, the Most Holy Lord has deemed it fitting to appoint the Reverend Father Richard Carlesi, elected Bishop of Soana and Pitilian, and to grant him the necessary and appropriate powers to delegate others, or to delegate others, to carry out what is intended, and to charge him with the obligation of sending an authentic copy of the completed execution to this Sacred Congregation within three months. Finally, concerning the matters discussed, this Consistorial decree is declared to be valid as if Apostolic letters sealed with the papal seal had been issued, notwithstanding any contrary provisions, even those of special note.

Given at Rome, from the Secretariat of the same Sacred Congregation, on the 8th of September, 1916.

C. CARD. DBLAI, Bishop of Sabina, Secretary.

L.©S, Thomas Boggiani, Archbishop of Edessa, Assessor.

III. DECREE CONCERNING THE ERECTION OF THE APOSTOLIC VICARIATE OF MAGELLANES.

For the better administration of sacred affairs, the Roman Pontiffs have always sought to decree what is fitting, exercising the fullness of Apostolic power. Now, it has been brought to the attention of His Most Holy Lord, Pope Benedict XV, that in the vast territory of Chilean Patagonia, which is called...

[*Latin ed. p. 407*]

The Sacred Congregation Consistorial [for the Propagation of the Faith] 407, regarding Magallanes, where a portion of the former Apostolic Prefecture of Southern Patagonia exists, has judged that it can more suitably promote the growth of the Catholic faith if an Apostolic Vicariate were established, and if a man distinguished with the episcopal character were to govern it; and the same Holiness has deigned to favorably consider these proposals. Therefore, after consultation with the Fathers of this Sacred Congregation Consistorial, and with the consent of those present, who were either personally involved or represented, the present Consistorial Decree was ordered to be issued, whereby, suppressing the Apostolic Prefecture of Southern Patagonia, which still exists, the territory of Magallanes, located within the boundaries of the diocese of Saint Charles of Ancud, is erected into an Apostolic Vicariate, to be called the Apostolic Vicariate of Magallanes, until it can be constituted as a proper and distinct diocese, with its principal seat in the place called Puntarenas. The boundaries of this Vicariate shall be: to the north, the geographical line parallel to 47 degrees; to the east, the civil boundaries between the Republic of Argentina and Chile; to the south and west, the Pacific Ocean, including the Falkland Islands (Malvinas), which belong to the English Government. Furthermore, the Most Blessed Father has willed that this Apostolic Vicariate of Magallanes

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remain subject to the metropolitan jurisdiction of the Archbishop of Saint James of Chile, and that it remain under the care and administration of the Priestly Society of Saint John Bosco, founded by the Venerable John Bosco, who have already been laboring there for many years. Finally, the same Most Holy Father has decreed that, according to the aforementioned Constitution, this Vicariate be subject in all respects to the dependence and jurisdiction of the Sacred Congregation of Propaganda Fide, with all contrary things being set aside. Given at Rome, from the Secretariat of the same Sacred Congregation, on the 4th day of October, 1916. C. CARD. DE L A I, Bishop of Sabina, Secretary. L. S. fThomas Boggiani, Archbishop of Edessa, Assessor.

[*Latin ed. p. 408*]

Acts of the Apostolic See - Commentary 408 Official, IV. PROVISIONS CONCERNING CHURCHES. By the successive decrees of the Sacred Congregation of the Consistory, His Holiness Pope Benedict XV has provided for the following churches, namely:

October 4, 1916. – The Metropolitan Church of Prague was promoted, and the Reverend Father Paul de Huyn, formerly Bishop of Brünn, was appointed.

October 16. – The Cathedral Churches of Lutsk and Zhitomir, perpetually and canonically united, were assigned to the Reverend Ignatius Dubowski, parish priest and vice-dean of the Cathedral of Zhitomir, with the designation as Administrator of the Cathedral Church of Kamenets.

SACRED CONGREGATION FOR THE PROPAGATION OF THE FAITH. NOMINATIONS. By Apostolic Briefs, the following were nominated:

August 16, 1916. – The Bishop of Bachen in the Orient, the Reverend Father Joseph Legrand, of the Congregation of the Holy Cross.

September 4. – The Bishop of Mysore in the Orient, the Reverend Father Hippolytus Teissier, of the Seminary of Paris for foreign missions.

[*Latin ed. p. 409*]

Sacred Congregation of Ceremonies 409. SACRED CONGREGATION OF CEREMONIES CONCERNING THE FUNCTIONS OF THE CEREMONIAL PECTORAL, THE SACRED RITES, AND THE CELEBRATION OF FUNERALS FOR CARDINALS IN ROME, IN THE PAPAL CHAPEL, REGARDING THE USE OF THE GREAT CAP, AND REGARDING THE CROSSED STAFF FOR FUNERALS. On the 17th day of the month of August, in the year 1916, on a Tuesday, in the Apostolic Palace at the Vatican, a Ceremonial Congregation was held, with the Reverend Father Elio and the Most Reverend Cardinal Vincent Vannutelli, Bishop of Ostia and Palestrina, Dean of the Sacred College, Prefect, as relator. Most Eminent Fathers, certain questions and doubts were discussed concerning the interpretation and application of the Decrees *Dignitatis

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eminentia et Sollemne semper fuit*, which were issued by this Sacred Congregation on May 30, 1902, regarding the functions of Cardinals, whether solemn or private, to be celebrated in Rome. The Most Reverend Fathers, confirming these Decrees in all respects, furthermore declared that it is not permitted for women, even if they belong to a religious Congregation or a pious society, to accompany the solemnities of Cardinals with singing. Furthermore, certain regulations were established concerning the Ceremonial of the Papal Chapel and the order to be observed therein. Since, in some places, Bishops are accustomed to wear the pectoral cross over the great cap, the Most Reverend Fathers, so that those coming to Rome would not lack a certain standard and know how they should conduct themselves, after careful consideration, and in accordance with the contrary tradition of Cardinals and Bishops in Rome, decreed: Nothing shall be changed in the Roman Curia and in the Pontifical Chapel. Certain decrees were also made concerning the funerals and obsequies of the Sacred Roman Church Cardinals, and also, if the Supreme Pontiff desires to testify to his piety towards deceased Cardinals, the proposal was accepted to establish an annual funeral Mass in the Apostolic Palace, with the Supreme Pontiff present, to be held in November, in suffrage for the Cardinals who have died within the year, either in the Curia or outside the Curia. All of these matters were reported to His Holiness Pope Benedict XV by the Most Reverend Cardinal, Prefect of the Sacred Congregation, in an audience on August 22nd; His Holiness deigned to confirm and approve them, decreeing and ordering that, every year...

[*Latin ed. p. 410*]

410 Acta Apostolicae Sedis - Official Commentary, November, states that a Papal Chapel should be held in the Apostolic Palace, in suffrage for the deceased Cardinals of the Holy Roman Church within the year; and furthermore, it orders that a special Decree be issued by the aforementioned Sacred Congregation regarding this matter.

From the Secretariat of the Sacred Congregation of Ceremonies, August 24, 1916.

NICOLAUS CANALI, Secretary.

DECREE:

Since, in the obsequies of the Most Eminent Cardinals who have died within the Curia, various funeral rites have been employed, according to the variety of times, Pope Benedict XIV, approving the custom observed by Benedict XIII, by the Constitution *Praecipuum*, issued on November 22, 1741, decreed the following: "That in the future, the funeral rites of Cardinals who die within the Roman Curia shall always be celebrated in the morning, never in the evening, and that they shall be celebrated, observing the following form, namely, that the Religious of the Mendicant Orders

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shall diligently come to the Church in which the body of the deceased Cardinal is exposed, in order to chant the three customary Offices for the dead in that place; after which Offices have been chanted, on the same morning... the Pontifical Chapel shall be held, with the Roman Pontiff and the Sacred College of Cardinals present, and also with all and each of the Pontifical Chaplains; and in that Chapel, the Holy Sacrifice of the Mass for the dead shall be solemnly celebrated by the Cardinal of the College of Cardinals who is for the time being the Chamberlain, or, if he is hindered, by another Cardinal delegated by the same Chamberlain Cardinal; and that the absolution shall be granted over the body of the deceased Cardinal, either in the presence of the aforementioned Pontiff, or in his absence, by the aforementioned Chamberlain Cardinal, or, if he is also absent, by a Cardinal, as is preferred."

However, these prescriptions, because of the changed conditions of the City, could not be observed. Therefore, this Sacred Congregation of Ceremonies has examined the funeral rites for Cardinals, in order to retain as much as possible the trace of the ancient magnificence. Thus, it has been decreed that, under the direction of the Prefect of the pontifical ceremonies, the Holy Solemnity shall be performed by a Bishop, to whom the customary ministers and assistants shall serve; and it is permitted for Cardinals and Legates from foreign nations to be present, although not publicly; and if the Supreme Pontiff himself cannot be present, in his place,

[*Latin ed. p. 411*]

The Ceremonial Congregation, numbering 411 Cardinals, the Dean of the Sacred College, would impart the ritual absolution, after the Sacred Office had been completed. However, this did not seem sufficient to His Holiness Pope Benedict XV, considering his affection and concern for the Cardinals; and for this reason, he ordered this Sacred Congregation to, after careful consideration, devise some means by which the Supreme Pontiff might fulfill his duty of paying the ultimate debt of love and piety to those who had served him as helpers in the onerous administration of the Papacy, as is stated in that Constitution. Therefore, this Sacred Congregation, at a meeting held on the 17th of the month of August, decided that the funerals of Cardinals should be held in the Vatican, with the same rites as before, but with a greater solemnity, in suitable churches; and furthermore, that a solemn Mass should be celebrated annually in the Vatican buildings, in the presence of the Supreme Pontiff, for all Cardinals who had died within the next year. His Holiness Pope Benedict XV, after these matters had been reported to him in an audience on the 22nd of the same month and year by the Cardinal Prefect of the Sacred Ceremonial Congregation, as indicated below, approved them, and decreed that, every year, in the month of November, on a certain day, a solemn Mass should be celebrated in the Vatican buildings, in the presence of the Supreme Pontiff and the Sacred

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College of Cardinals, and also all the Pontifical Chaplains, for all Cardinals who had passed away within the year preceding, either in the Vatican or elsewhere, by the Cardinal Chamberlain of the Sacred College, or by a Cardinal delegated by him; – after which, the Supreme Pontiff himself would impart the ritual absolution over the tomb. Contrary to anything to the contrary notwithstanding. Given from the Secretariat of the Sacred Ceremonial Congregation, on the 25th of August of the year 1916. VINCENTIUS CARD. VANNUTELLI, Prefect of the Sacred Congregation. Bishop of Ostia and Praenestin. Nicolaus Canali, Secretary.

[*Latin ed. p. 412*]

Acts of the Apostolic See - Official Commentary. SACRED CONGREGATION FOR SEMINARIES AND CATHEDRAL CHURCHES. LETTER TO THE REVEREND FATHER ALFRED OF SIENNA, OF BAUDRILLART, RECTOR OF THE CATHOLIC INSTITUTE OF SAINT THOMAS AQUINAS IN PARIS, CONCERNING ITS DEVELOPMENT.

My Lord,

In the face of the material and moral ruins that the present world sees accumulating each day, the Holy See, confident in Him who has promised to be with His Church until the consummation of the ages, desires to contemplate the coming era of restoration. It is not doubtful that France will have a considerable part in this work of restoration. We hope that the glorious words, by which your history has been summarized in the past: "Gesta Dei per Francos," will be verified again in the future.

However, this moral restoration will be complete and lasting only to the extent that it has been prepared and sustained by sound doctrine. As faith, according to your celebrated Guillaume de Paris, is the first life of the human spirit, the first light in the work of the second creation and of human reparation (Guillaume de Paris, *Liber De Moribus*, chapter I), so too is doctrinal formation the first and most indispensable. You know in what direction this formation must be oriented in the Catholic Universities.

"Popes succeed one another," said Cardinal Billot, "one of the glories of your homeland, Popes of different nationalities, with very diverse tendencies and characters, but all, from John XXII to Benedict XV, have but one voice in recommending Saint Thomas Aquinas." "In commending Aquinas, there is a unanimous sentiment among all." (Speech given on March 11, 1915, for the establishment of the Academy of Saint Thomas).

It is sufficient to examine, even briefly, the work in which Father Berthier, O.P., has gathered, as if in a chain...

[*Latin ed. p. 413*]

The Holy Congregation for Seminaries and Universities, in document 413, presents these testimonies from the Supreme Pontiffs in favor of the doctrine of the Angel of the Schools (Father Berthier, *S. Thomas, Doctor

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Communis Ecclesiae*, 1914). I limit myself to recalling the words of the Encyclical: "Is it necessary to add that the book par excellence, in which students can study with greater profit the scholastic theology, is the *Summa Theologica* of Saint Thomas Aquinas? We therefore want the professors to take care to explain the method to all their students, as well as the principal articles relating to the Catholic faith." Two years later (October 1, 1901), the lamented Pontiff wrote to the Bishop of Verdun: "May those who apply themselves to the teaching and study of theology and philosophy consider it their primary duty, after setting aside the inventions of a vain philosophy, to follow Saint Thomas Aquinas and to cultivate him as their master and their guide." And in the Encyclical Letter *Aeterni Patris* to all the Bishops: "It is the certain and concordant opinion of learned men that the wisdom of Thomas should be drawn from his own sources, or at least from those streams which, having been drawn from that very source, still flow, intact and unimpeded." In the same sense, Pope Pius X, of blessed memory, wrote on May 6, 1907, to the Protecting Bishops of your Institute: "Concerning philosophy, we ask you not to ever allow in your seminaries a less scrupulous observance of what our predecessor, Pope Leo XIII, most wisely prescribed in the Encyclical Letter *Aeterni Patris*. Great importance is attached to the safeguarding and protection of the Faith... Therefore, you should not wish that your students of the sacred order be imbued only with the precepts of philosophy to the extent prescribed in the public instruction of letters, but even more and more deeply, namely, according to the discipline of Saint Thomas Aquinas, so that they may subsequently acquire a solid knowledge of Holy Theology and of the science of Scripture." The thought of His Holiness Benedict XV is not different. In a Brief addressed to Father Hugon, O.P., and published in the *Acta Apostolicae Sedis* of June 7, 1916, the Supreme Pontiff wrote: "It is holy and salutary, and almost necessary in Catholic schools, where the sacred youth is instructed in the sciences of philosophy and theology, to hold Saint Thomas Aquinas as the supreme master." And in the Motu Proprio, of December 3, 1914, in favor of the Theological College of Bologna: "We know well that Saint Thomas Aquinas is rightly held in honor there, whose doctrines our illustrious predecessors, Leo XIII and Pius X, have held in the highest regard."

[*Latin ed. p. 414*]

414 Acta Apostolicae Sedis - Official Commentary « have extolled their praises, and have prescribed that they be religiously retained in Catholic schools » . . . . We decree that the Archchancellor and the Theological College of Bologna, while observing the due prescriptions of the Sacred Council, and in order to promote studies, especially the decree of the Doctor Angelicus, published on June 29th of this year, concerning the highest principles of Thomas Aquinas in philosophy, and concerning the *Summa The-

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ologica* to be held in esteem in theological schools, or others which the Apostolic See may prescribe, may confer academic degrees and honors in theology . . . ». And finally, the same Pontiff deigned to approve and confirm the response of this Congregation, dated March 7, 1916, concerning the study of the Doctor Angelicus. I am certain, Monsignor, that the eldest daughter of the Church, which has so often anticipated even the desires of the Holy See, and which is eager to be first in love, will observe these pontifical directives with even greater zeal henceforth, and that, in particular, your Institute and the other Catholic Universities of France, whose devotion to the Chair of Peter is so well known, will contribute very effectively to this resurrection which we salute in advance. Expressing my desires and hopes to you, Monsignor, I once again congratulate you on the zeal you have employed for the good of the Catholic Institute, and which will enable you to find the means to apply the salutary measures of which I have just spoken. > v , c Accept, Monsignor, my best wishes and the sentiments with which I love to say Rome, September 30, 1916. your most devoted, N. - S. G. CARD. BISLETI, Prefect.

[*Latin ed. p. 415*]

S. Romana Rota ACTA 415 TRIBUNALIUM SACRA ROMANA ROTA, r. MOHILOVIENSIS. NULLITATIS MATRIMONII (RADZIWILL-BENARDAKY) Sub Benedict XV, feliciter regnante, in secundo anno Pontificatus Dominationis Suae, die 18 Aprilis anno 1916, RR. PP. DD. Seraphinus Manu, Ponens, Ioannes Prior, et Aloisius Sincero, Auditores de Turno, in causa Mohilovien. - De nullitate matrimonii, inter Michaelem Radziwill, actorem, repraesentatum per legitimos procuratores Vincentium Sacconi, advocatum, et Nazarenum Ferrata, advocatum, ex una parte, et Mariam Benarclaky, contumacem, cum assistentia legitimorum procuratorum Caroli Santucci, advocati, et Christophori Astorri, advocati, ex altera parte, in gradu appellationis contra sententiam Rotalem diei 27 Iulii 1915 a Defensore Vinculi interpositam, interveniente et disceptante in causa eodem Defensore Vinculi, tulere sententiam definitivam. Princeps Michael Radziwill, natus Berolini anno 1870, religione romano-catholica, civilitate Russica auctus, diplomaticum curriculum iniit, et, anno 1898, mense Aprili, legationi Russicae apud Gubernium Anglicum Londini addictus fuit. Iam ab anno 1895 Michael amore prosequebatur Mariam Benardaky; haec, nata anno 1874, religione graecoorthodoxa, Parisiis cum suis genitoribus in domo propria domicilium a multis annis fovebat. Mense Iulio anni 1898, Michael sponsalia contraxit cum Maria. Cum, juxta legem Russicam, nuptiae ritu graecoorthodoxo celebrandae essent, et difficile fuisset invenire sacerdotem catholicum, qui, post caeremoniam schismaticam, nuptiis benedicere ritu catholico vellet, Michael et Maria, eiusque genitores Petropolim se contulerunt, et ibi nuptiae celebratae sunt hoc modo: Die 31 Augusti 1898, Rev. P. Lagrange, O. P., obtenta, ut

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ipse refert, delegatione ab archiepiscopo Mohiloviensi, secreto, in capella domus suae privatae,

[*Latin ed. p. 416*]

416 Acta Apostolicae Sedis - The official record states that the marriage blessing was conferred upon the couple; subsequently, on September 2nd, the couple, in the presence of a Greek-Orthodox chaplain, publicly celebrated the marriage according to that rite in a Greek-Orthodox church; and then, in the Catholic church, in the presence of the same Father Lagrange, they repeated the marriage, with renewed consent, according to the Catholic rite. On the same day, September 2nd, they left Petropolis, and, having completed their wedding journey, they proceeded to London. They lived together until almost the year 1909, and children were born to them. However, after disagreements arose between the spouses, Prince Michael, having obtained, on September 7th of the year 1909, a Pontifical commission, brought this case before the Holy Tribunal, in order that his marriage with Mary be declared null and void due to a defect in the Tridentine form. After a lengthy examination before several tribunals, a judgment was finally issued on July 27th, 1915, in which it was declared that the marriage was null, while preserving the legitimacy of the children. The Defender of the Bond appealed against this judgment, with regard to the part that concerned the nullity of the marriage, and the case was then re-presented under the usual formula of doubt: Should the judgment of the Royal Tribunal of July 27th, 1915, be confirmed or overturned in this case? Regarding the law: - First of all, it must be noted that the Tridentine decree, although promulgated in the archdiocese of Mohiloviensis, to which the city of Petropolis belongs, is nevertheless valid there, although marriages between heretics or schismatics, or mixed marriages, are permitted, according to the Declaration of Benedict XIV concerning marriages in Holland. This is confirmed by the testimony of the Bishop of Attalia, formerly the Suffragan of the Archbishop of Mohiloviensis, which has already been presented to His Holiness the Ordinary in another matrimonial case of Mohiloviensis: and this testimony reads as follows: "It is testified that the decree of the Council of Trent is in force throughout the archdiocese of Mohiloviensis. However, the Tridentine form only applies to Roman Catholics of that Empire, and not to marriages of heretics or Orthodox, whether contracted between themselves or with Roman Catholics; for the provision previously granted by Pius VI, on March 2nd, 1780, for Poland, which was subject to the Russian Empire, was subsequently extended by Gregory XVI, on August 19th, 1844, through the Congregation for Affairs Outside the Ordinary, to marriages of heretics and mixed marriages throughout the entire Russian Empire, with the following oral declaration: 'It should be answered that mixed marriages, which have been initiated in the Russian Empire and in the Kingdom of Poland, contrary to the prescriptions of

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the Council of Trent, should be prudently tolerated, and, although illicit, considered valid, unless another canonical impediment exists.'" Thus far, the testimony of the Bishop of Attalia; however, the aforementioned declarations, both of Pius VI for Poland, which was subject to the Russian Empire, and of Gregory XVI for the entire Russian Empire,

[*Latin ed. p. 417*]

In Rome, it was already known from the work of Father Perrone, "De matrimonio," p. 269-270, published in Rome in 1858. In "Christianus," vol. II, the following is stated. Given this, the canonical principles that govern the case under discussion can be briefly explained as follows: 1. The decree of the Council of Trent, "Tametsi," which was in force when the disputed marriage was celebrated, is a territorial law, having the force of local law, which binds all those residing in that place, not only those who have a domicile or quasi-domicile there, but also those who are merely passing through. Therefore, if someone from a place where this decree is not in force enters a place where it is in force, they are bound by the decree, even if they have not acquired a domicile or quasi-domicile there; and therefore, a marriage contracted without observing the form prescribed by this decree is "null." This doctrine is the most common and certain, contrary to some, such as Carrière, "De matrimonio," nos. 1184-1194, vol. II, p. 406-411, who claim that the aforementioned decree has only a personal force, or that it only obligates in the manner of a personal statute. However, it is clear from the very wording of the decree that it is primarily and above all local, that is, it applies primarily to a place or territory; for we read at the end of the decree: "Furthermore, (the Holy Synod) decrees that such a decree should begin to have its force in each parish after thirty days from the day of its first publication in that same parish." Thus, the decree applies primarily to the parish itself or the territory of the parish. Moreover, laws that govern contracts are local, so that all those contracting there, even foreigners, are bound by these laws; hence the axiom: "Locus regit actum" (the place governs the act); hence also the judge is competent by reason of the place of the contract, as is stated in chapter 20, "De foro competenti." Furthermore, marriage is a contract, and, at least in this respect, it is not an exception to the general condition of contracts. Therefore, the Holy Roman Congregation has always interpreted the aforementioned decree of Trent in this sense, namely, that it is a local or territorial law. Thus, the Holy Congregation, even from its very beginnings, as is evident from the decision of February 4, 1580, which is cited by Pignatelli, "Consultationes canonicae," vol. V, consult. 79, no. 8; and also in "Parisien. - Matr.," of January 28, 1899, as cited by Gasparri, "De Matrimonio," no. 1170, vol. II, p. 192, published in 1904. Similarly, the Holy Congregation of the Inquisition clearly teaches, in the Instruction of December 14, 1859, that the law is territorial; these are its words: "The law of Trent concerning clandestine marriages must certainly

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be promulgated in each parish;... but, once promulgated,... the law affects the territory, and to speak properly, it is both local and personal in its effect; insofar as it is local, it affects the territory and binds those who are to be joined in marriage there; insofar as it is personal, it binds those who have a domicile or quasi-domicile in the place where Trent

[*Latin ed. p. 418*]

418 Acta Apostolicae Sedis - Official Commentary: "In one place, a decree has been promulgated and is in force; in another, where it is not in force, they would wish to 'contract' [marriage]." The Sacred Office transmitted the Instruction of the Holy Congregation for the Propagation of the Faith to the Archbishop of St. Francis, in the United States of America, as a rule to be observed, on February 29, 1860 (Collectanea S. C. de Propaganda Fide, ed. 1907, no. 1186, vol. I, p. 647). And so, as has been said, the most common opinion of the Doctors is, for example, Sánchez, *De matrimonio*, book III, disputation 18, no. 26; Pontius, *De matrimonio*, book V, chapter 9, no. 1; ßossius, *De matrimonii contractu*, chapter 1, no. 79; Pignatelli, *Consultationes canon.*, vol. V, consultation 79, no. 32, etc.; with whom agree more recent authors, for example, Perrone, *De matrimonio christiano*, vol. II, p. 274 and following; Rosset, *De matrimonio*, vol. IV, no. 2098 and following; Emus Gasparri, in the aforementioned place, no. 1169 and following, p. 191, ed. 1904; Wernz, *Ius matrimoniale*, no. 169, p. 257, ed. 1904, and in the Voto which he wrote in the aforementioned *Parisien. Matrimonii*, on January 28, 1899, no. 32-36 (in *Analecta ecclesiastica*, vol. VII, p. 70-71), etc.

2. The decree of the Council of Trent is not merely a territorial law, but also a personal one, so that, besides the local force described above, it also has a personal force, or obliges in the manner of a personal statute. Therefore, if someone who has a domicile or quasi-domicile in a place where the decree is in force, goes to a place where it is not in force, he remains bound by the decree (unless he acquires at least a quasi-domicile in that place), so that he cannot validly contract marriage unless it is in accordance with the form of the aforementioned decree. Although many Doctors have denied that this personal force is inherent in the Tridentine decree (of whom a list can be seen in Gury, ed. Ballerini, vol. II, no. 8.39, or in *Scriptores periodici Acta Sanctae Sedis*, vol. VII, p. 557), nevertheless, there is no doubt about the aforementioned proposition, namely, that a personal force is inherent in the Tridentine decree. First, it is suggested by the very tenor of the Tridentine decree; for the Holy Synod not only annuls the contract of marriage clandestinely celebrated, but also renders those who attempt to contract marriage in that manner "entirely incapable of doing so," which clearly indicates that the personal force of the decree is inherent in the person. Secondly, the proposition is clearly deduced from the decision of the Holy Congregation of the Council of September 5, 1626, which Urban

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VIII elevated to the rank of law, even with the addition of a decree of invalidity, in the brief *Exponi nobis*, of August 14, 1627 (Bullarium Bom., ed. Taurinen., vol. XIII, p. 591). This decision was related by the Pope himself as follows: "First, can inhabitants, both men and women, of a place in which the Council of Trent has been promulgated on the matter of marriage, who pass through a place in which the said Council has not been promulgated, and retain the same domicile, validly contract marriage in this place without a priest and witnesses? Secondly, what if..."

[*Latin ed. p. 419*]

The Roman Rota, number 419, states: "Are these inhabitants, both men and women, to be transferred, solely with the intention of contracting marriage, without a priest and without witnesses, without changing their residence? Secondly, what if these same inhabitants, both men and women, were to transfer their residence, solely with the intention of contracting marriage without a priest and without witnesses? To the first and second questions, the Cardinals responded and decided that there is no legitimate marriage between those who transfer themselves in this manner; to the third question, however, if the residence is truly transferred, the marriage is valid."

As is evident from the tenor of the decision, with regard to those who move from a place where the decree Tametsi is in force, to a place where it is not in force, there are three cases; in the first two, the movers do not change their residence; in the third, they change their residence and transfer it to a place where the decree Tametsi is not in force. In the first two cases, the marriage is declared invalid; in the third, it is valid. The difference between the first and second case is that, in the second, the movers act solely with the intention of contracting marriage without a priest; while, in the first, this intention is not present. Nevertheless, in the response, both movers are said to transfer themselves with fraud; therefore, it is not a matter of subjective fraud, or deceit (which is absent in the first case), but of mere objective fraud, that is, the detriment that, whether they will it or not, the proper pastor suffers from this transfer; this objective fraud, or detriment, cannot be avoided, except by changing the residence (as is the case in the third case considered); for, if the residence is changed, the pastor of the former place no longer has the right to join the movers in marriage.

Therefore, in summary, those who move from a place where the decree Tametsi is in force to a place where it is not in force, without changing their residence, are said to act with fraud (at least objective fraud), and cannot validly contract marriage: which, in other words, clearly signifies that the decree Tametsi has not only a local, but also a personal force, and follows the person, even in a place where it is not in force, unless the person acquires there, at least quasi-domicile. And in this sense, the Holy Roman Congregations have interpreted this decision: "Therefore,"

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says d'Annibale, in Summula, vol. III, no. 457, note 42, "a marriage contracted by those who were ignorant of the law [Tridentine] is not valid (S. C. C., August 26, 1873); nor is it valid for those who, knowing it, left [their domicile] in order to free themselves from unjust parental vexation (S. C. C., April 3, 1841; June 11, 1866), or in order to contract marriage before a priest who is a consanguine (from S. U. I., approved by SS., May 17, 1804)."

But the Holy Congregation of the Inquisition more clearly asserts the personal force of the decree Tametsi in its Instructions. The words of the Instruction of December 14, 1859, which were mentioned above, are: "The law [Tridentine] affects the territory, and, to speak properly, is both local and personal in the confession; ... to the extent that it is personal, it obligates those who have a domicile, or quasi-domicile, in..."

[*Latin ed. p. 420*]

The Acts of the Apostolic See - Official Commentary, "in the place where the Tridentine decree was promulgated and is in force, and in the other, where it 'does not have force,' they wished to distinguish." Similarly, in the Instruction of June 7, 1867 (cited in Collectanea S. C. de Prop. Fide, no. 1305, vol. II, p. 2), the same Sacred Congregation, speaking expressly of the aforementioned decree of Urban VIII, stated: "According to what is established in this decree, those who have their domicile and 'retain it in the place where the Tridentine law is in force, cannot validly enter into marriage in a place where it is not in force, unless they have established there not only a residence, but also a true domicile, in order completely to avoid any fraud that may occur'; which clearly implies that the Tridentine decree has personal jurisdiction, and that it pursues those whom it has once bound, just as a shadow follows the body, even in places where it is not in force. In the same sense, the aforementioned Sacred Congregation of the Inquisition responded in a case from Paris, on April 6, 1895; namely, that the marriage, which a man and a woman, having their domicile in France, had contracted in London, was declared null, although the parties were not aware of the Tridentine law; indeed, when in the petition sent by the Archbishop of Paris to the Sacred Congregation, the difficulty against the nullity of the marriage, arising from the more common opinion that subjective fraud is required in the contracting parties, was explained, in order that their marriage might be declared null, the Sacred Congregation did not consider even the slightest reason for this more common opinion; but it completely rejected and disregarded it, so that (when other facts, in the case, were legitimately proven, according to the decree of the Sacred Office of June 3, 1889) it decided that in this case, a single sentence was sufficient to declare the spouses free, and that it was not necessary to have an appeal interposed by the Defender of the Bond. This decision was reported in the periodical Canoniste contemporain, vol. XVIII, p. 449-451. Thus, the aforementioned opinion, requiring subjective fraud, which was truly once more

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common, has gradually been abandoned, so that Wernz calls it old, rather antiquated; these are his words (in the cited place, no. 170, note 156, at the end, edition of 1904): "Hence it is clear why the more common opinion, which 'insisted too much on true subjective fraud, has not been admitted by many ancient writers, but especially by more recent ones, after the latest decisions of the SS. Congregations, has been more and more abandoned, e.g., by D'Annibale, Gasparri, Rosset, Laurin, Leitner, Scherer, Peries, as well as by Scavini, Gretoni, Grandclaude, Schnitzer, de Becker, Fleiner, and others. And, considering the principles and particular decisions, especially those given by the Sacred Congregation of the Inquisition, there seems to be no hope that this retreat from the formerly more common opinion will be delayed by a new theory advocated by Arendt..." In the same sense, Buceeroni says (Instit. Theologiae Moralis, vol. II, no. 1026, edition of 1908): "The more common opinion held that the marriage of..."

[*Latin ed. p. 421*]

The Roman Rota, number 421, states: "Those who, having a domicile or quasi-domicile in a place where the Tridentine Decrees are in force, go to another place where the Tridentine Decrees are not in force, without the intention of acquiring a domicile or quasi-domicile, but simultaneously without the intention of secretly contracting marriage, if they then secretly contract marriage there. However, the decisions of the Most Holy Congregation and the Sacred Congregation of the Council are now contrary, in which it is declared that the Tridentine law is both local and personal; and also because, in external matters, fraud is presumed by the very fact. See, for example, the Sacred Congregation of the Holy Office, June 7, 1867, number 1047, *Acta S.S.*, volume 36, pages 222 and following. From this, Emilius Gasparis, in the aforementioned place, number 1207, edition of 1904, concludes that, in a contentious forum, the judge must pronounce the nullity of the marriage in this case, even without subjective fraud in the contract. But also, he says, if it is a marriage contracted, and brought before a contentious forum, the Official must, if we are not mistaken, pronounce for nullity, due to the authority of the Sacred Congregations.

3. As is clear from the above, if someone, having a domicile and residing in a place where the Tametsi Decree is in force, goes to a place where it is not in force, he remains bound by the decree, due to the personal force of this decree, and therefore, if he wishes to contract marriage in this other place, he is obliged to contract it before his own parish priest, or another priest with the permission of his own parish priest. Furthermore, his own parish priest is not the parish priest or rector of the place through which he passes; but the parish priest of the place where he has his domicile or quasi-domicile; for the term "own parish priest" is understood only in relation to the domicile or quasi-domicile, unless we are speaking of vagrants, who have a parish priest assigned to them where they are; but since we are not

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speaking of a vagrant, but of a pilgrim who maintains his domicile or quasi-domicile, his own parish priest can only be the parish priest of his domicile or quasi-domicile. Similarly, if someone, having a domicile and residing in a place where the Tametsi Decree is not in force, goes to a place where it is in force, he is subject to the decree due to its territorial or local force, as has been seen above; and therefore, if he wishes to contract marriage in this other place, he is obliged to contract it before his own parish priest, or another priest with the permission of his own parish priest. Furthermore, even in this case, his own parish priest is not the parish priest of the place through which he passes, but the parish priest, or rector, or whatever other name he may be called, of the place where he has his domicile or quasi-domicile. It cannot be said that in this place of his domicile there is no parish priest in the sense of the Tametsi Decree, since the Tametsi Decree is not in force there; for this is false; for the term "own parish priest" is understood independently of the Tametsi Decree; for the Council of Trent did not create the own parish priest, but presupposed him, and used him as a qualified witness for marriages. Therefore, an Englishman, having a domicile in Anglia, and going to Paris, if he wishes to contract marriage there...

[*Latin ed. p. 422*]

The Acts of the Apostolic See – Official Commentary, here, requires that the dispensation be obtained, not before the parish priest of the parish in Paris where the person resides, but before the parish priest of his domicile in England, or before another priest with the permission of either. And these things are clear and certain: and the arguments presented against this doctrine, in the aforementioned case of Paris, on January 28, 1899, are not probable, as Wernz clearly demonstrates in his cited work, numbers 51-53; 61-64; 70-72.

4. To complete this exposition of the law, it must be noted what is particular in this impediment of clandestine marriage. In other impediments, the part that is exempt from the impediment does not communicate its exemption to the other part; thus, if a woman freely intends to contract marriage with a man who is bound by a solemn or sacred order, she does not communicate her freedom to him, and the marriage is invalid. Otherwise, it is with the impediment of clandestine marriage; if one party is exempt from this impediment, for example, because he has his domicile in a place not subject to the law of Trent, he communicates his exemption to the other party, so that an Englishman, having his domicile in London, and therefore exempt from the decree of Tamets, can validly contract marriage with a Gallic woman, subject to the decree. This principle was already sufficiently accepted during the time of Benedict XIV, as can be concluded from what he himself narrates in *De Synodo*, Book VI, chapter 6, number 12. Furthermore, this principle was affirmed by the Holy Congregation of the

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Inquisition, in a document from Quebec, dated November 17, 1835, paragraphs 2 and 4 (in *Collectanea S. C. de Prop. Fide*, number 842, volume 1, page 488). Therefore, today, without any controversy, this principle is valid; so that all doctors hold that the party exempt from the impediment of clandestine marriage communicates his exemption to the other party, because of the individuality of the contract; but it must be added: and according to the positive disposition of the Church, which has interpreted the decree of Tamets in this way. In other impediments, the individuality of the contract is not sufficient for the exemption of one party to be communicated to the other.

As for the facts: Prince Michael Radziwill, at the time the marriage was contracted, had his domicile in London, in England; from April 14, 1898, he was appointed to the Russian legation at the English government; and this position continued until May 24, 1903: which is confirmed by an authentic certificate, dated January 9, 1910, issued by a public official of the Russian Ministry of Foreign Affairs (in the Summary). Therefore, witnesses generally testify that Prince Michael departed from London to Petrograd to celebrate the marriage. Since the decree of Tamets had not been publicly promulgated in London, but was in force in Petrograd, Prince Michael was presenting himself from a place exempt from the decree to a place subject to the decree, and therefore, according to the aforementioned exposition of the law, he was subject to the decree.

[*Latin ed. p. 423*]

The Roman Rota ruled that the law of Trent applied, due to the local or territorial force of that law. On the other hand, Maria Bernardaky, at the same time of the marriage, resided in Paris, at 65, Ghaillot Street, where she had lived with her parents for many years, and from whom she had never separated, despite their advanced age. In France, as is well known, the decree of Tametsi was in force, and it bound all, both Catholics and heretics and schismatics. Therefore, Maria, coming from France to St. Petersburg, came from a place subject to the law of Trent, and consequently, wherever she resided, she remained bound by the decree of Tametsi, due to its personal force; therefore, even in St. Petersburg, she was subject to the form of Trent in contracting marriage. Thus, both spouses, being located in the city of St. Petersburg, were bound by the decree of Tametsi. Furthermore, in the marriage that they celebrated in this city on September 2, 1898, the form of Trent was not observed; they did not contract the marriage before their own parish priest or another priest with the permission of their own parish priest. Since the spouses had neither a domicile nor a quasi-domicile in St. Petersburg (which is beyond dispute), they had no parish priest there; on the other hand, the Reverend Father Lagrange, O.P., before whom they contracted the marriage, did not have the permission of either the parish priest of Maria in Paris, nor the parish priest of Michael

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in London, but only a delegation from the Archbishop of Mohilev. This delegation, of course, is in no way sufficient in this case, as is evident from what was stated in the exposition of the law. Therefore, there is no marriage. But here, the Defender of the Bond raises a threefold objection. First, he says that mixed marriages in the city of St. Petersburg, as well as throughout the Russian Empire, are valid by the declarations of Pius VI, March 2, 1780, and Gregory XVI, August 19, 1844, as mentioned above; and that the marriage that Prince Michael, a Catholic, and Maria, of the Greek Orthodox religion, contracted in St. Petersburg on September 2, 1898, is a mixed marriage, and therefore valid. Indeed, the aforementioned declarations of the Popes apply directly to the type of marriages, namely, to the marriages of heretics and mixed marriages celebrated in the Russian Empire: which is the marriage in question. - But this difficulty is resolved in no way. The principles previously explained regarding the local and personal force of the decree of Tametsi, unanimously accepted by doctors and jurists, are general and must be applied everywhere. Therefore, even in those places where the decree is in force for Catholics, but not for non-Catholics (as in the Russian Empire), the same principles apply, and regard must be had to the type of marriages. Therefore, a Catholic who comes from a place exempt from the decree, and goes to a place where the decree is in force for Catholics, is subject to the local force of the decree.

[*Latin ed. p. 424*]

The Acts of the Apostolic See – the official record – are considered authoritative. Regarding these acts, it is clear, and even the Defender of the Bond does not dissent: Prince Michael was a Catholic, coming from England, that is, from a place enjoying immunity; however, he was traveling to Petro, that is, to the place where the decree of Tametsi was promulgated in favor of Catholics; therefore, he was subject to the local force of the decree, and consequently, he did not enjoy any immunity that he could communicate to others. This other party, namely Maria Benardaky, although at that time heterodox, was subject to the personal force of the decree, because she came from Gallia, that is, from a place subject to the decree, where she resided. Therefore, both parties were subject to the decree, one by its local force, the other by its personal force. Since their marriage was celebrated in violation of the decree, it is null.

Secondly, the Defender of the Bond states that the decree of Urban VIII, dated August 14, 1627, which declares that marriages of those who pass through a place exempt from the law of Trent and contract marriage there, do not apply, if those who pass through "did not do so with the intention of deceiving," that is, with the intention of secretly contracting marriage (Observations, n. 16); therefore, in order for the marriage to be declared null in this case, the Defender of the Bond requires subjective fraud, which, in fact, he believes was not present.

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However, this interpretation of the decree of Urban VIII is contrary to the decisions of the Holy Office, as mentioned above in the exposition of the law, from which it is clear that the decree of Tametsi has both local and personal force; for it is the nature of personal force to follow the person (once that person is bound by the decree, as, for example, when they are domiciled or quasi-domiciled in a place subject to the law of Trent), everywhere, like a shadow, and to bind them as if it were a personal statute, and therefore independently of good or bad faith: all of which has been demonstrated extensively above.

Furthermore, for the sake of thoroughness, given (although not admitted) the interpretation of the decree of Urban VIII made by the Defender of the Bond, there was present in the bride, Maria, a specific subjective fraud, which is required in order to declare the marriage null. As it appears from the records, when the couple wished to celebrate their marriage according to the Greek-Orthodox rite, according to Russian law, and it would have been difficult to find a Catholic priest who, after a schismatic ceremony, would be willing to bless the marriage according to the Catholic rite, they traveled to Petro. Indeed, the couple knew that it would be difficult to bring the parish priest of Michael from Londinium, or the parish priest of Maria from Parisiensem, to bless the marriage in these circumstances, either by themselves or by another priest. Therefore, in order to avoid these inconveniences, they emigrated to Russia; they therefore intended to contract marriage without the presence and consent of their own parish priest: in which there is certainly fraud contrary to the law of Trent. It is irrelevant whether one or the other witness says that the couple emigrated to Petro in order to celebrate the marriage there.

[*Latin ed. p. 425*]

In the Roman Rota, case 425, it is stated that, because in that year, Mary resided in Cariati for business reasons; this opinion of a very few witnesses cannot outweigh the statements of many other witnesses. And these considerations are confirmed by what is noted in the case of Christopher of Havana, of July 11, 1910 (Acta Apostolicae Sedis, vol. II, p. 878): "If, with a single intention, or even a principal intention, the parties go to a place free from the jurisdiction of the bridegroom to contract marriage, the Doctors hold that the marriage is null, because it is contracted with fraud, namely, by defrauding the parish priest of his right to assist at the marriage." Furthermore, in this case, it is clear from the records that the bridegroom went to Petrograd with the sole intention, or at least the principal intention, of contracting marriage. The third Defender of the Bond states that the bride, Mary, when she contracted marriage with Michael in Petrograd, was legally free; for, at least at the moment of the civil ceremony, which preceded the true marriage, she had completely renounced her domicile in Paris; "and therefore," he says, "her condition of freedom, in the absence

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of other titles, was sufficient to sustain the validity of the marriage" (Animadversiones alterae, no. 13; cf. no. 18-19). However, this third difficulty is also easily resolved. For when Mary Benardaky left her paternal home and went to Petrograd, she did not leave it except with the intention and condition of a true marriage, by which the bride would be bound to the groom, and vice versa, and by which, therefore, she would acquire the domicile of the groom and be bound to follow it. Furthermore, this true marriage, by which the parties would be bound to each other, could not, in Mary's mind, be a schismatic religious rite; for she knew well that this schismatic rite was nothing to the Catholic groom, and that Michael would not consider himself bound, except by the force of the Catholic rite, which followed the schismatic one; therefore, only after the Catholic rite was celebrated, did Mary consider herself bound, both by the law of marriage and by the law of domicile; for her obligation, as is clear, was subordinate to the obligation of the groom. According to Roman law, the bride does not lose her paternal domicile except through the marriage itself, as stated in L. Ea quae, 32, D. Ad Municipalem, L. 1: "She who is betrothed does not change her domicile before the marriage is contracted"; which is also accepted in canon law, as is noted in the Parisien. Nullit. Matrim., of January 27, 1912 (Acta Apostolicae Sedis, vol. IV, p. 282). For the bride acquires the domicile of the husband only by virtue of the marriage celebrated according to canon law, and she is bound to follow it, and only then does she renounce her paternal domicile. Thus, it is also in the present case; Mary did not acquire the domicile of the Catholic groom, nor did she definitively renounce her paternal domicile, except through a marriage celebrated according to canon law, that is, through a Catholic marriage. Therefore, before this Catholic marriage, she was never free.

[*Latin ed. p. 426*]

Acts of the Apostolic See - Official Commentary. Therefore, having considered all matters both in law and in fact, and having carefully examined them, invoking the name of Christ, We, the undersigned Auditors, sitting for the Tribunal, and with only God before our eyes, do hereby decide, declare, and definitively pronounce that the marriage between Michael Radziwill and Maria Benardaky is null, and therefore, in response to the question proposed, We answer: affirmatively to the first part; negatively to the second, namely, that the Royal sentence of July 27, 1915, is to be confirmed; declaring and deciding further, that, even in this first part, the sentence is confirmed, and that the child born of said marriage is legitimate, considering the good faith of the spouses. Regarding the judicial expenses, We declare that they are to be considered as settled between the parties. Thus We declare, ordering the Ordinary of the place and the ministers of the Tribunal to whom it pertains, to enforce this Our definitive sentence, and against those who resist, to proceed according to the norms of the Sacred

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Canons, and especially chapter 3, session 25, concerning reform, of the Council of Trent, employing the executive and coercive means that shall be deemed most appropriate and effective for the circumstances. Rome, in the seat of the Tribunal of the Sacred Roman Rota, on April 18, 1916. Seraphinus Many, President. Johannes Prior. Aloysius Sincero. From the Chancery, April 28, 1916. Rev. T. Tani, Notary.

[*Latin ed. p. 427*]

427. Holy Roman Rota II. Citation by edict concerning the nullity of marriage (MARCHIO' - BIN). Since it is established from the inquiry conducted in the Florentine archiepiscopal court that the aforementioned Joseph Marchio' cannot be found, the undersigned Dean of the Holy Roman Rota, presiding in this cause, by the present edict, peremptorily summons the aforementioned Joseph Marchio' to appear, either in person or through a procurator, at the seat of the Holy Tribunal on December 1st, at 11 o'clock, for the purpose of subscribing to the following question, and also to determine the day on which the Rota session will be held for the definition of the aforementioned cause; furthermore, it is declared that, if he does not appear, the process will be considered initiated and concluded in his contumacy.

QUESTION: Does it appear that there is a nullity in the marriage in this case?

The ordinaries of the place and all faithful persons to whom knowledge is given of the place of residence of the aforementioned Mr. Joseph Marchio' are to take care, as much as they can, that he is informed of this edictal citation.

Given in Rome, on October 31st, 1916.

G. Sebastiani, Dean, Presiding.

From the Holy Chancery, on October 31st, 1916.

Ioannes Ladelci, Notary of the Holy Rota.

[*Latin ed. p. 428*]

Acts of the Apostolic See - Official Commentary 428 Translation.

TRIBUNAL OF THE HOLY ROMAN ROTE, ROME.

Citation by Decree concerning the NULLITY OF MARRIAGE (MARCHIO - BIN).

As it appears from several investigations conducted within the archiepiscopal curia of Florence, that the aforementioned defendant, Joseph Marchio, cannot be found, the Dean of the Rote, undersigned, in this cause, peremptorily cites the same Joseph Marchio, by this present decree, to appear personally, or by a duly constituted procurator, at the seat of the Tribunal of the Holy Roman Rote on the coming 1st of December, at eleven

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o'clock, in order to address the doubt reported below, and to set the date for the presentation of the cause before the Rote, further declaring that, if he does not appear, the canonical process will be continued and concluded in his absence.

DOUBT:

Does he admit the nullity of the marriage in the present case?

The Ordinary of the place and the faithful who may have knowledge of the residence of the aforementioned Mr. Joseph Marchio, must, as far as possible, ensure that he is informed of this citation.

Given at Rome, on the 31st of October, 1916.

G. L.©S.

From the Chancery, on the 31st of October, 1916.

Ioannes Ladelci, Notary of the Holy Rote.

Sebastiani, Becanus, Presiding Judge.

[*Latin ed. p. 429*]

From the Roman Curia Diary, 429.

DIARIUM ROMANAE CURIAE

SECRETARY OF STATE

BY ORDER OF THE SECRETARY OF STATE, THE HOLY FATHER HAS DEIGNED TO APPOINT:

October 18, 1916. – His Eminence, Cardinal Filippo Giustini, Protector of the Institute of the Blessed Filippine, which has its motherhouse in Barcelona.

By Apostolic Briefs, the Holy Father has deigned to appoint:

Protonotaries Apostolic, with the same privileges as those participating:

June 20, 1916. – Monsignor Stefano Siminiati, of the diocese of Lesina.

July 10. – Monsignor Cirillo Riedl, of the diocese of Brünn.

– Monsignor Giuseppe Pospisil, of the same diocese.

August 5. – Monsignor Floriano Stan, of the diocese of Gran Varadino of the Greek-Ruthenian rite.

August 23. – Monsignor Guglielmo Nolens, of the diocese of Ruremonda.

October 17. – Monsignor Francesco d'Assisi Ribeiro Costa, of the archdiocese of Braga.

Domestic Prelates of His Holiness:

June 8, 1916. – Monsignor Casimiro Wais, of the archdiocese of Leopoli of the Latin rite.

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June 14. – Monsignor Giovanni Trzopinski, of the same archdiocese.

– Monsignor Vincenzo Czajkowski, of the same archdiocese.

June 21. – Monsignor Antonio Dobronic, of the diocese of Lesina.

July 10. – Monsignor Ignazio Zimmermann, of the diocese of Scepusio.

August 5. – Monsignor Giacomo Radu, of the diocese of Gran Varadino of the Greek-Ruthenian rite.

August 23. – Monsignor Benedetto Saenz, of the archdiocese of San Domingo.

– Monsignor Pasquale Ciocia, rector of the Regional Seminary of Catanzaro.

September 9. – Monsignor Bartolomeo Capasso, canon of Liberiana.

September 10. – Monsignor Pietro Brommenscenkel, of the diocese of Des Moines.

[*Latin ed. p. 430*]

430 Acta Apostolicae Sedis - Commentarium Officiale, September 12, 1916. — Monsignor Giuseppe Furlan, of the diocese of Treviso. September 28. — Monsignor Giuseppe Schwind, of the diocese of Spires. — Monsignor Federico Molz, of the same diocese. October 3. — Monsignor Ludovico Saverio Bazin, of the diocese of Savannah. October 12. — Monsignor Michele Guarini, of the archdiocese of Taranto. By a Pontifical Brief, the Holy Father deigned to grant to the Master of the Sacred Hospitaller the faculty of assuming the designation of Grand Master of the Sacred Hospitaller, and of detaching him from the class of Secret Knights Participating with Sword and Mantle.

HONORS

By Apostolic Briefs, the Holy Father deigned to confer the following honors:

The Order of Saint Pius: September 15, 1916. — To the Reverend Doctor Giuseppe M. Cantilo, Under-Secretary of the Ministry of Foreign Affairs in the Republic of Argentina.

The Grand Cross of the Order of Saint Gregory the Great, civil class: October 18, 1916. — To Mr. Yagoro Miura, Extraordinary Envoy and Minister Plenipotentiary of the Emperor of Japan, on a special mission to the Holy See.

The Order of Saint Gregory the Great, civil class: August 22, 1916. — To Mr. Edoardo Pietro Francesco Antonio van den Bogaert. August 26. — To Mr. Ermanno Ritschel, of the archdiocese of Vienna. — To Mr. Ludovico Baumann, of the same archdiocese. August 29. — To Mr. Narciso Gelats, of the archdiocese of Santiago de Cuba. October 5. — To the Reverend Doctor Carlo Schwering, of the archdiocese of Colonia.

The Knighthood of the Order of Saint Gregory the Great, civil class: Au-

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gust 26, 1916. — To Mr. Ernesto Hegenbarth, of the archdiocese of Vienna. September 1. — To Mr. Giuseppe Grossi-Gondi, of Rome. September 27. — To Mr. Emilio Novak, of the archdiocese of Zagreb.

The Grand Cross of the Order of Saint Sylvester the Pope: September 22, 1916. — To Mr. Count Renato de Lamotte d'Allogny, Chamberlain of the Prince of Monaco.

[*Latin ed. p. 431*]

Diarium Romanae Curiae 431: Concerning the Commandery of the Order of St. Sylvester the Pope: September 15, 1916. — To Mr. Attilio Daniele Barilari, Introducer of Ambassadors and Head of Ceremonies in the Republic of Strasbourg. October 1. — To Mr. Dr. Lorenzo Cochetti, of Rome. The Knighthood of the Order of St. Sylvester the Pope: August 26, 1916. — To Mr. Cristoforo Stumpf, of the archdiocese of Vienne. — To Mr. Giuseppe Meissner, of the same archdiocese. — To Mr. Alfonso Zehle, of the same archdiocese. August 31. — To Mr. Dr. Tommaso Pensa, of the diocese of Ascoli Satriano and Cerignola. September 2. — To Mr. Camillo Angelucci, custodian of the pontifical palace of Castelgandolfo. September 12. — To Mr. Romeo Bernardini, of Rome. September 15. — To Mr. Adolfo J. de Urquiza, Secretary of Legation, of the Republic of Strasbourg. October 17. — To Mr. Dr. Raffaele Trua, of the diocese of Orte. NOTICE: The Editorial Board of the "Annuario Pontificio" at the Secretariat of State earnestly desires to transmit to the Most Reverend and Reverend Ordinaries of the dioceses, the prelates' colleges, the superiors general of the religious orders, the rectors of the ecclesiastical colleges, and all dignitaries belonging to the pontifical court, in a timely manner, the information and corrections necessary for the edition of the "Annuario" for the coming year 1917, in accordance with the circular letter of the Most Eminent Cardinal Gasparri, Secretary of State, dated July 15, 1915, and the specific instructions received at the time of appointments and promotions.

PREFECTURE OF THE HOLY APOSTOLIC PALACES: APPOINTMENT

By decree of the Prefecture of the Holy Apostolic Palaces, the Holy Father has deigned to appoint: October 27, 1916. — Mr. Cav. Camillo Beccari, as Coadjutor with future succession to Mr. Edmondo Pulcinelli in the office of Master of the House of the Holy Apostolic Palaces.

[*Latin ed. p. 432*]

Acts of the Apostolic See - Official Commentary

MAGGIORDOMATO DI SUA SANTITÀ

By the hand of His Eminence, the Prefect, the Holy Father has deigned

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to appoint:

Extraordinary Secret Chamberlains of His Holiness:

August 23, 1916. — Mons. Mattia Frana, of the diocese of Budweis. — Mons. Francesco Saverio Expectacao Barreto, of the diocese of Damao.

October 7. — Mons. Moisé, Doctor, Cagnac, of the archdiocese of Bourges. — Mons. Filippo Bernardini.

October 20. — Mons. Alfonso Gammilli, of the diocese of Pistoia.

October 21. — Mons. Federico Lunardi.

Extraordinary Secret Chamberlain of Sword and Mantle of His Holiness:

August 30, 1916. — The Most Noble Count Wolfango Schlitz von Görtz und von Wrisberg, of the diocese of Hildesheim.

Honorary Chamberlain in Peacock Attire of His Holiness:

July 5, 1916. — Mons. Andrea Zivkovic, of the diocese of Djakovar (Sirmio).

Honorary Chaplain outside of Rome of His Holiness:

August 23, 1916. — Mons. Giuseppe Hello, of the diocese of Rosnavia.

NECROLOGY

October 9, 1916. — Mons. Giacomo Ozcoidi y Udave, Bishop of Tarazona and Apostolic Administrator of Tudela.

October 12. — Mons. Roberto Menini, titular Archbishop of Gangra, Apostolic Vicar of Sofia and Filippopoli.

October 17. — Mons. Carlo Marbach, titular Bishop of Pafo.

[*Latin ed. p. 433*]

Annus T U I - Vol. VIII, December 1, 1916, No. 12. ACTA APOSTOLICAE SEDIS, Official Commentary. ACTA of Pope Benedict XV. LETTER to the Reverend Father Augustine, Superior of the Congregation of the Oblates of the Immaculate Conception, founded in Acre, General, and Prefect of their Province.

Venerable Brother, greetings and the Apostolic blessing.

We have received with great pleasure news from your letter, concerning the fact that the family of the Oblates of the Immaculate Conception, which you wisely govern, is about to celebrate the completion of a century since its foundation. Indeed, We gladly join in your common joy, offering Our congratulations. For We know well, and have observed, that your Institute has accomplished much and admirable things for the benefit of Holy Church throughout this entire period; and that not only within the boundaries of your Province, but also among those outside; so that it may be affirmed, in a certain sense, that the Province granted to it by divine will extends to the ends of the earth for the purpose of labor. In this, it appears that God has wished to reward your industry threefold: for with what virtues that most excellent Author and Lawgiver, whose memory is blessed, first took

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care of you, and We have found that He has always guided these virtues in you; whether it be a singular piety towards the Most Blessed Virgin, or an observance towards the Apostolic See, or a fraternal charity that blossoms from it, by which you love one another and strive for the salvation of souls. Moreover, it should not be overlooked that...

[*Latin ed. p. 434*]

Acts of the Apostolic See - Official Commentary 434, to place before you our praise, you strive diligently in many regions to convert barbarians to the Christian faith and to civil life, and also to promote the education of youth in letters and in sacred disciplines. Our predecessors often praised these things; now We wish to add Our own praise to these. And so that a worthy example of Our benevolence may exist, We appoint you, venerable Brother, Archbishop of Stator, to Our See: with this honor, We wish that the entire institution you oversee may prosper. And you, continue as you have been doing, united with the Roman Pontiff, to merit well for the Church; be certain that heavenly gifts will never be lacking to you, if you always pursue the Divine Parent with the utmost devotion, as you are accustomed to do. As a pledge of Our good wishes and of Our paternal benevolence, We impart to you, venerable Brother, and to the entire community of Oblates, Our apostolic blessing in the Lord. Given in Rome, near St. Peter, on the twenty-third day of December, in the second year of Our Pontificate, 1915. BENEDICT XV. To the Most Reverend Fathers, Cardinals, DD. NATALE BRUNI, Archbishop of Mutina, Abbot of Nonantola, and other Prelates of Emilia, assembled for the annual meeting, offering thanks for the most devoted letters received. Venerable Brothers, greetings and apostolic blessing. — The common letter which you sent to Us recently from Mutina, has brought to Us your service, and has signified a certain mark of affection. For you diligently recall those things which We strive, with much counsel and effort of charity, to address, those difficulties which already for a long time have weighed upon Us, and those troubles which have arisen in these recent days, and you express them in writing in such a way that scarcely anyone could have shown greater concern for Our suffering. Those things which you recount are certainly intolerable; but We, neither leaning to the right nor to the left, will use that equity of judgment with which We have used thus far; nor will the opinions of those who judge wrongly, nor the detractions of the malevolent, ever have more weight with Us than the conscience of duty.

[*Latin ed. p. 435*]

Acts of Pope Benedict XV, 435, Concerning a letter and regarding the significance of studies: We give thanks to you and express our gratitude; and we wish to demonstrate our benevolence towards you, also with the apostolic blessing, which, as reconciler of heavenly gifts, we impart most

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earnestly to all of you, venerable Brothers, and to the clergy and people, each and every one of you, in the Lord. Given in Rome, at St. Peter's, on the thirtieth day of October, 1916, in the third year of Our Pontificate. BENEDICT XV.

To the Most Reverend Fathers, the Most Reverend Lords, Louis Gavotti, Archbishop of Genoa, and the other Bishops of Liguria, assembled in their annual meeting, expressing our most heartfelt thanks for their common and most dutiful letter.

Venerable Brothers, greetings and the apostolic blessing.

These are the concluding words of your most loving letter, from which we take the reason for replying. For with a brief and clear statement, you indicate the causes by which we are afflicted, and you demonstrate the path that must be followed, so that the wrath of God may be averted from us. Indeed, it is necessary that those who are afflicted turn to the people and seek the Lord God. And in this, venerable Brothers, we most earnestly desire that your studies and piety shine forth: for we consider that religion and the love of country demand this from you, so that, in the present state of affairs, scarcely a greater duty can be found. Furthermore, know that whatever judgments and duties you have presented to Us in your letter have been most pleasing to Us, and may the apostolic blessing be a witness of our benevolence towards you, which, as reconciler of heavenly gifts, we impart most earnestly to all of you, venerable Brothers, and to the clergy and people, each and every one of you, in the Lord.

Given in Rome, at St. Peter's, on the nineteenth day of November, 1916, in the third year of Our Pontificate. BENEDICT XV.

[*Latin ed. p. 436*]

Acts of the Apostolic See - Official Commentary 436 IV, TO GEORGE, MOST HOLY SECRETARY, CONCERNING THE BOOK ON GRACES, PRESENTED TO THE MOST REVEREND CARDINAL GUSMINI, ARCHBISHOP, A TESTIMONY OF REVERENT GRATITUDE FROM BONONIA. Beloved Son, health and the apostolic blessing. — In the book which you recently published, entitled "The Perfection of the Priesthood," dedicated to the clergy of Bononia – which we received with great pleasure – so much is contained in so few words! We, as much as our busy schedule permitted, quickly perused some of the passages, in which you strive to kindle, as it were, the fire of priestly piety in the daily life; and we were delighted, not only by the selection of arguments, but also by the pleasing variety and abundance of Scriptural passages, to which you so diligently accustom the ministers of the sacred rites, so that the word of God may become in them a fountain of living water for eternal life. Therefore, we offer these exemplary expressions as a sign of our heartfelt gratitude, and we offer congratulations for the noble purpose undertaken in writing; and likewise, we impart the apostolic blessing, which, as a witness to

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the heavenly assistance and to the testimony of our benevolence, we bestow upon you, beloved Son, and upon the entire clergy of Bononia, with paternal affection in the Lord. Given in Rome, near St. Peter, on the nineteenth day of November, 1916, in the third year of Our Pontificate. BENEDICT XV.

[*Latin ed. p. 437*]

Sacred Congregation Consistorial, 437, Acta, 88. SACRED CONGREGATION. CONSISTORIAL LETTER. TO THE MOST REVEREND ARCHBISHOPS AND ECCLESIASTICAL BISHOPS CONCERNING THE ESTABLISHMENT OF ECCLESIASTICAL PATRONAGES FOR THE BENEFIT OF EMIGRANTS IN CALABRIA. The Holy Father received with great pleasure the news, which the Reverend Father G. Botassi reported in these last days from Calabria, concerning the commitment of the Most Reverend Hierarchy to the establishment of an ecclesiastical patronage for the benefit of emigrants. Indeed, this is a work of great charity towards so many poor souls who, leaving their homeland in search of better fortune, and being as inexperienced as they are, if they are not piously assisted, easily fall into the hands of speculators, both in the places of departure and in the places of arrival, and are miserably deceived or exploited. But it is also a necessary and holy work to preserve the ancestral faith and religion in those who emigrate, and, by extension, in our own countries; for it is well known that associations of other tendencies, very widespread and powerful in their means, seek to attract our people before their departure, and also in the ports of arrival, in order to win them over to themselves, to direct them to places where they will often be deprived of religious assistance, and in this way more easily gain them over, detaching them from the Catholic faith and from every practice of Christian life. Therefore, the establishment of ecclesiastical patronages for the benefit of emigrants must be considered not only pious and charitable, but also religious and necessary, I would almost say, for the future of the faith in Italy. And it is good to establish the foundations of these patronages now; for, although, due to the current circumstances, there is an inevitable stagnation in emigration, tomorrow, when conditions return to normal, a still greater exodus than in the past is unfortunately foreseen to the distant lands: and it is necessary then to be prepared for assistance.

[*Latin ed. p. 438*]

438 Acta Apostolicae Sedis - Official Commentary. Our charitable institutions should be established according to the civil provinces, due to the necessary relationships that emigrants must have with the Prefectures regarding passports and other matters. However, at present, for Calabria, only one has been able to be established in Cosenza; and two corresponding ones must be added in the other two cities that are seats

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of civil provinces, namely Catanzaro and Reggio; unless, later, when it is possible, autonomous institutions are also created in those two cities. It is necessary, either through conferences or in another way, to make the establishment of these institutions known to the parish priests and the faithful, so that those who intend to emigrate know to whom they can confidently turn, and that they rely on these institutions rather than on others. The Holy Father commends this work, and trusts that this pious and religious initiative, through the effective cooperation of the Episcopate and the clergy, will bear abundant fruit. And on my part, while I pray Your Eminence to keep me informed of the development and progress of this new institution, I declare myself to be Your Eminence's devoted servant. Rome, 24 November 1916. Faithfully, + G. CARD. DE LAI, Bishop of Sabina, Secretary. PROVISIO ECCLESIAE. From the Sacred Congregation of the Consistory, a decree from the Most Holy Pope Benedict XV provides for the following for the Church: 21 October 1916. — The Reverend Michael Godlewski, Master of the Ecclesiastical Academy of St. Petersburg, has been appointed as the titular bishop of the Church of Aegea in Africa, with the Reverend Ignatius Dubowski, Bishop of Luck and Zhytomyr, as his Auxiliary.

[*Latin ed. p. 439*]

SACRED CONGREGATION OF THE COUNCIL.

I. DIOCESE N.

Regarding the Distribution [of ecclesiastical goods].

On December 12th, in the year 1913.

Statement of Facts. – The territory of the City N. formerly constituted a single parish, the care of which was entrusted to the Canons of the cathedral church. However, in the eighteenth century, it was divided into four parts, and the actual care of each was entrusted to priests who were not members of the Chapter, and who exercised this ministry in their own churches, receiving income from certain assigned and appropriate benefices. But, in more recent times, when the Chapter vigorously and effectively defended its parochial rights, and, having been called into question by the Government, obtained the preservation of certain goods pertaining to the Mass, for which reason the Government added a grant to the four parishes, it spontaneously occurred that those priests who were administering the care of souls were received back into the Chapter. And this was confirmed between them and the Chapter by a special agreement, in which it was stipulated "as an inviolable law for the future, that the goods, as mentioned above, entrusted to the care and benefit of the Parishes, be administered together with the common Mass, by the Chapter;

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and that the Canons, or rather, the Parish Priests, or more properly, the Curators, while serving the cathedral church, as do all the others, except when they are engaged in the exercise of the care of souls, shall enjoy the same duties, rights, and honors as the Canons." This agreement was arranged by the Bishop so that it would be approved by the authority of the Holy See, which was obtained through a Rescript of this Sacred Congregation; and therefore, the parish priests, as if incorporated into the Chapter, peacefully enjoyed all rights, as do the other canons; while, when they were absent from the choir due to the care of souls, they were considered present and participated in the distribution [of ecclesiastical goods].

[*Latin ed. p. 440*]

440 Acta Apostolicae Sedis - An Official and True Commentary on this very question, a not insignificant one, arose last year, when certain Chapter members argued that parish priests, even when absent, should not be penalized for the exercise of their ministry, since they ministered in churches that were their own, and also in other churches, distinct from and separate from the cathedral; this controversy, not being able to be resolved peacefully, was submitted to the judgment of this Holy Order under the following formula of doubt: Whether three Canons-Curates of the Cathedral Chapter N. present in the choir should be considered to have the right to receive all distributions, even those not strictly intended for those present, whenever they are absent from the choir in order to perform parochial duties, either in the parochial churches themselves, or in other places within the territory of each parish, in such cases. Synopsis of the discussion. a) Arguments presented against the Canons-Curates. - It is well known, the Chapter members say, that those who oppose the intention of the Curates in this case cite, in chapter one, the custom, in the Code of Canon Law, and the Council of Trent, Session XXIV, chapter 12, de Ref., which states: "Those who have been present at the appointed hours shall receive [the distributions];" and no one is ignorant of the principal reasons that, in some way, exempt from this general law, according to the same chapter, namely: infirmity, or a just and reasonable bodily necessity, or evident benefit to the Church; and it is quite clear that this last reason must also be understood to apply to canons who, while having charge of souls in a collegiate or cathedral church, are assigned to the exercise of this ministry, whenever they are engaged in or prevented from attending the choir by the exercise of this ministry. However, since, as has been frequently defined, the church of which the benefit is in question must be the same one to which the distributions belong, it necessarily follows that those who, while being canons, e.g., in the cathedral, minister to souls in parochial churches distinct from and separate from that cathedral, cannot be admitted to receive these distributions when they are engaged in the exercise of this ministry,

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because, as everyone understands, no benefit accrues to the cathedral from this. Furthermore, in this case, the explicit provision of the law, namely the Constitution *Cupientes* of Pope Pius V, dated July 8, 1568, which stipulated that parish priests should be strictly required to reside in their parish, so that those holding a canonry, by legitimate dispensation, in a cathedral or collegiate church distinct from their parish, should only enjoy the fruits, and not the distributions, as explained by Fagnanus, in *c. Licet, De praeb.*, n. 121. Indeed, as Benedict XIV points out in *Istrus.*, CVII, n. 56, in this case, the care of souls is not said to belong to the canonry itself, but to entirely distinct and separate parochial benefices from the canonry; and therefore, it is not permissible to compensate the burdens and fruits of either with the other. Cf. also Santi, *Inst. can.*

[*Latin ed. p. 441*]

The Holy Congregation of Councils, in Decree 441, Title IV, concerning non-resident clergy; De Herdt, *Praxis Capitularia*, Chapter XXVIII, etc. *Monitum Ecclesiasticum*, 1910, (Volume XXII), page 499. With these premises established, it is easily demonstrated, according to repeated capitular decrees, that canons who are parish priests cannot receive distributions in certain cases. Indeed, we are not speaking of a duty that inheres in the canonry itself, because the parochial duty was transferred by the Bishop from the cathedral church, at least since the 16th century, to four newly established churches, with certain goods assigned to each of these churches. Hence, it also happened that parish priests, then and subsequently, were instituted by the Bishops with full jurisdiction, according to a common formula. Although, as we said, in more recent times, a certain agreement was established that elected parish priests should become canons in a certain way, even if (which is not conceded) such an arrangement had created a union of certain canonries with parishes, nevertheless, the prescription of the Constitution of St. Pius V always remains in force, according to which, parish priests, "as long as they reside in their parochial territory, can enjoy 'all the fruits and revenues of the canonry, except for the distributions'" about which we are now speaking. Furthermore, the Capitulars add, it would not help to object that in the aforementioned agreement, it was stipulated that parish priests "in such cases are bound to the service of the Cathedral Church, as are all others, except when they are detained in the exercise of the care of souls," and that this has been confirmed and accepted by custom in such a way that "for more than thirty years, those who have held the care of souls in this city have always been considered morally present in the choir." Indeed, custom and agreement cannot override the prohibition of the Council of Trent, Session XIV, Chapter 12, concerning Reforms, which explicitly states: "notwithstanding any statutes and customs." Reiftenstuel (in *Liber III Decretal*, Title IV, n. 173) states: "Therefore, the conclusion follows that the custom of receiving daily distributions in absentia is not

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valid, whether it was introduced before or after the aforementioned Boniface Constitution; because the Constitution of Boniface VIII not only simply negates the custom of receiving distributions in absentia, but also opposes it, and condemns it as unjust and unreasonable, as is evident from these words: 'We utterly condemn the custom that has prevailed in some places, etc. '" Almost all canonists teach the same, such as Fagnanus, in *c. Licet, de Praeb.*, n. 77 and 79; García*s, *de Benef.*, page 3, Chapter 2, n. 430; Barbosa, *de Canon. et Dignitatib.*, Chapter 22, n. 22; De Luca, *de Can. et Capit.*, discourse 3, n. 3, and in *Adnot. ad Conc. Trid.*, discourse 1, n. 16; Piton., *Discept. eccl.*, in discourse 23, n. 16 and 17, and in discourse 112, n. 29; Ferraris, *v. Distributiones*, article 2, n. 1; De Herdt, *Praxis Capitularia*, Chapter 30, § 8; Pallottini, *l.c.*, where he adds: "For the law of Trent is of such strength that no law can be found contrary to it."

[*Latin ed. p. 442*]

4i2 Acta Apostolicae Sedis - Official Commentary: "The custom, although ancient, is not even a sworn rule of the Chapter, as Fagnanus teaches in c. Licet de Praeb., n. 92, even though the authority of the Bishop may strengthen it." The Holy See has always taught this, as in Anagnina, Distributionum, February 29, 1744; Illerden, Absentiae et Distribut., March 3, 1792; Derthonen, Constit. Capit, September 12, 1829; Ipporegien, Servitii Chori, January 30, 1830; Vaivén, Distribut., April 23, 1853; Signina, July 29, 1854; Tranen, Distribut., December 20, 1862 (Cf. Card. Gennari, Consultazioni morali-canoniche-liturgiche, vol. II, page 283). Furthermore, it is also observed that Chapter decrees repeatedly state that custom and convention cannot be invoked regarding ordinary or daily distributions; however, they can have some effect regarding extraordinary or occasional distributions, as is the common doctrine (Cf. Bened. XIV, Instit, cap. VII, n. 58; Piton., Discept., 1; Scarfant., ad Ceccop., 1. II, t. X, n. 1), and this Holy Congregation has always held this view, provided that "the will of the donors or testators does not object." Therefore, unless there is a specific case, the alleged convention and custom should be condemned, as stated in the text of the Council of Trent; however, it will be permissible to interpret and uphold them, only with regard to the fruits of the prebend, or at most with regard to extraordinary distributions, which is the matter in question in this case.

b) Arguments presented in favor of the Curators. Regarding the law, canonical rectors do not dismiss the arguments of the opposing side, nor do they invalidate the legitimate reason for absence in the case where the evident benefit of the church, concerning whose distributions we are speaking, is not present; furthermore, they completely concede that those who exercise the care of souls in churches that are entirely external, and in no way related to the one concerning which the distributions are in dispute, should not be admitted to the distributions. But nothing more. It is suffi-

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cient to read the very texts cited above to immediately see that this prohibition is limited to the care exercised in churches entirely different from the cathedral, or to Chapters that do not relate to the Chapter, either actually, habitually, or in any other way. Indeed, St. Pius V, in Const. Cupientes, speaks only of those who, being canons, have the care of souls in a church entirely external to the canonical one: so that, according to Fagnani's explanation, "a legitimate dispensation" is necessary in order for anyone to hold both benefices; nor is it otherwise, as Benedict XIV states in l. c. (Istruz., CV1I, n. 56), where he rightly argues in the hypothesis of a true and real distinction between the canonical and parochial benefice. Furthermore, De Herdt himself is sufficient to cite from recent authors, who, in l. c, Prax. Capit, c. XXVIII, summarizes the common doctrine as follows: "Outside the cathedral church, it is not permitted for a canon of that church to exercise the care of souls, which is neither actual nor habitual, with regard to the Chapter; for this is incompatible with the canonry."

[*Latin ed. p. 443*]

The Holy Congregation of Councils, number 443, states that [such a situation] appears incompatible. However, it is permissible if an Apostolic dispensation is granted, "in which case the Canon should reside in the parochial church, and at the same time, he should enjoy the fruits of the Canonry." In this text, the author seems to have in mind the resolution of the Holy See Council in Venusina, on July 30, 1763, which reads as follows: "Those who exercise the care of souls in another church, which does not belong to the Chapter, neither actually nor habitually, lose the fruits." However, in this case, the canons argue that their churches cannot in any way be considered external, alien, or not pertaining to the cathedral. To refute this, they state that it is sufficient to recall: "In antiquity, and without dissent, before the 17th century, the entire parochial care in the city of N. belonged entirely to the Chapter." In the 18th century, the territory was indeed divided, but in such a way that the parochiality, or care, at least habitually, remained entirely within the cathedral. They cite the chapter statutes, which are still in force, in which it is written: "The parochial church itself is the Cathedral, and all the others in which the care of souls is exercised are filial and vicariate parochial churches of that [cathedral]; and those who exercise the same care are called Economists." And therefore, they point out, these same statutes state: "Since the Economists are those who are actually engaged in the care [of souls], the title and designation of 'Parish Priest' has never been legally applied to them." Indeed, in all chapter acts, including the convention whose words we have quoted, the names "Parish Priests" are never used simply, but with the addition of a qualifier: "Canonical Parish Priests" or rather "Economist Curates." And it is not only a matter of denomination, but also of many rights that are reserved to it, as the universal parish, and the cathedral itself, which the Canonical Cu-

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rates, without contradicting the Chapter, enumerate as follows: "a) Only the cathedral erects the cross at the funerals of the entire city; b) for marriages celebrated anywhere, the cathedral demands a certain fee; c) it keeps the baptismal records, and therefore receives its fees in the preparation of the records; d) on the titular feast of the cathedral, it demands a certain tribute of wax from each parish; e) finally, only the parochial church has a baptismal font, and, most importantly, all the parishioners (that is, all the citizens) are obliged to fulfill the Paschal precept in the Cathedral itself." But all of these things can only pertain to a moral person, or a church that has the care of souls, at least habitually. Therefore, it cannot be said that the churches in which Canonical Curates exercise the care of souls do not belong to the cathedral, but rather that they are habitually attached to it, and therefore the moral presence of the one exercising the care continues within the cathedral, to use the words of Monsignor D'Annibale.

[*Latin ed. p. 444*]

444 Acta Apostolicae Sedis - Commentarium Offictale (Summula, lib. III, n. 493): « quasi absentis Ecclesiae suae causa: atque « ideo si paroecia excitata sit in ipsa Cathedrali ». c) Hic autem status rerum nostris temporibus minime immutatus est, sed immo luculentior evasit. Ut enim in specie facti observatum est, recentiore aevo Capitulum apud Gubernium contendit, et quidem cum effectu, sibi adhuc competere curam parochialem saltem habitualem, atque ita consecutum est conservationem eorum bonorum quae postea Gubernium ad paroeciarum dotationem addixit: quae bona, quum ex inita conventione a Sacro hoc Ordine approbata « nomine et utilitate paro « choruma Capitulo, sicut in praeterito, simul cum Massa communi « administrari debeant », revera videtur universus rerum status rediisse omnino, saltem perdurantibus praesentibus rerum adiunctis, in eam conditionem, in quacura animarum totius territorii erat apud Capitulum et per Capitulares exercebatur. Exinde profecto cura animarum ipsi beneficio canonicali adnexa censenda erat, vel saltem eius actuale exercitium agi nomine Capituli eamdem habitu retinentis: quod, nemine denegante, satis est ad evincendum controversum ius distributionum percipiendarum. Quibus positis, ipsa conventio, in qua explicite statuitur « Canonicos « parochos seu potius Oeconomos Curatos, prout ceteri omnes servitio « Ecclesiae cathedralis mancipari, excepto tamen tempore quo curae animarum officiis sunt detenti », minime censeri potest irrita et nulla, quasi legi canonicae adversetur. Est immo conventio iuxta legem dicenda, quia lex excludit quidem a percipiendis distributionibus canonicos qui curam gerunt in ecclesiis sub quocumque respectu extraneis, nontamen illos qui curam exercent in ecclesiis tantummodo materialiter diversis a cathedrali, ad quam, ut in casu, habitualiter referuntur, adeo ut omnino tamquam pertinentiae illius sint censendae. Atque prout talis ab hoc Sacro Ordine conventio illa

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approbata fuit; quae circumstantia omnem controversiam dirimere videtur. Nec admitti potest interpretatio restrictiva, quam nunc Capitulares eidem conventioni affigunt, quasi liceat per eamdem canonicos curatos fructus praebendae, non autem distributiones percipere: tum quia contra factum, non valet argumentum, et in facto est, prouta Capitularibus conceditur, iam a triginta annis et ultra, conventionem ita exsecutioni demandatam esse, ut curati animarum cura impediti universas distributiones sive quotidianas sive eventuales, non solos praebendae fructus, perceperint, et ad punctum soluti fuerint; tum quia frustra, ad fructus praebendae percipiendos, in hac hypothesi, exigeret conventio « Oeconomos curatos . . . « servitio Ecclesiae cathedralis mancipari, excepto tamen tempore », etc.

[*Latin ed. p. 445*]

The Holy Congregation of the Council, number 445, because, according to the Constitution *Cupientes*, of Pope Pius V, in order to receive the fruits of benefices, no service is required, but mere residence in one's own parish suffices.

Resolution: Therefore, these matters having been presented by both sides, by the judgment of the Most Reverend Fathers of the Holy Council, in plenary sessions held on the 12th and 13th of December, 1913, in the Apostolic Palace at the Vatican, the following question was debated: Whether the three Canons and Curates of the Cathedral Chapter, present in the choir, ought to be able to receive all distributions, even those not strictly pertaining to the choir, whenever they are absent from the choir to attend to parochial duties, either in the parochial churches themselves, or in other places within the bounds of each parish. To which the following response was issued: "Considering the particular circumstances of the matter, and these circumstances persisting, we affirm." The resolution of the Most Reverend Fathers, We, in audience on the 15th day of the same month and year, approved, with the consent of the undersigned Secretary. O. GIORGI, Secretary.

II. DECREE CONCERNING THE PROVISION OF OFFICES AND BENEFICES DURING WAR.

Since, due to the present war, many priests will be engaged in military service, and therefore will be unable to fulfill the conditions required for obtaining ecclesiastical offices and benefices, it has seemed opportune to declare, and, if necessary, to decree, that the prescription of the Holy Canons, that most wise prescription, concerning the non-extension of the provision of offices and benefices beyond six months from the date of notification of the vacancy, does not apply in this case, provided that the impediment persists.

Therefore, this Holy Congregation of the Council, by the authority of

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Our Most Holy Lord Pope Benedict XV, declares, establishes, and decrees that, during the time of war, it is permissible for the Ordinaries of the places to postpone the collation of vacant offices and benefices beyond six months, whenever and as long as the particular circumstances of things and persons, according to their prudent judgment, suggest it; especially:

[*Latin ed. p. 446*]

Acts of the Apostolic See - Commentary 446. Concerning the official offices and benefits for which provision must be made through appointment, either by concurrence, or specially, according to the norms of the Constitution *Cum Illud* of Pope Benedict XIV, the same Holy Congregation, by the tenor of these letters, decrees that the granting of the title should be extended wherever and until the priests of each diocese are compelled to military service, for the cause of war; meanwhile, provision must be made, especially for the care of souls in vacant parishes, through suitable vicars or administrators, according to the decrees of the Holy Council of Trent, Session 24, chapter 18, notwithstanding any contrary provisions. Given in Rome, from the Secretariat of the Holy Congregation, on the 14th of November, 1916.

Signed: F. CARD. CASSETTA, Prefect.

L. % S. O. Giorgi, Secretary.

SACRED CONGREGATION FOR RELIGIOUS ORDERS.

DOUBTS REGARDING THE EXIT OF POSTULANTS FROM MONASTERIES OF NUNS.

To the Sacred Congregation for Religious Orders, the following doubts have been proposed for appropriate resolution:

I. Can female postulants in monasteries subject to papal enclosure leave, for the purpose of visiting their parents or relatives, or for some other reason? And to this, the answer is negative.

II. Do they require Apostolic permission for such an exit, or is the consent of the Ordinary sufficient?

The same Sacred Congregation, after mature deliberation, judged that the following should be answered:

To I: Negative.

To II: Affirmative for the first part; negative for the second.

Given in Rome, from the Secretariat of the same Sacred Congregation for Religious Orders, on the 7th of November, 1916.

Signed: D. CARD. FALCONIO, Bishop of Velletri, Prefect.

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L. © S. f Adulphus, Bishop of Canopita, Secretary.

[*Latin ed. p. 447*]

The Holy Congregation of the Propagation of the Faith, 447. HOLY CONGREGATION OF THE PROPAGATION OF THE FAITH. DECREE. By Letters of the Holy Congregation of the Propagation of the Faith, the Most Holy Lord Pope Benedict XV has deigned to name: November 14, 1916. — Reverend Canon Peter Fumasoni-Biondi, having been raised to the dignity of Archbishop ad instar Orientalium, is appointed Apostolic Delegate in India.

[*Latin ed. p. 448*]

Acts of the Apostolic See - Official Commentary. ACTS OF THE SACRED ROMAN ROTA. Regarding the collation of a benefice. Under the happy reign of Pope Benedict XV, in the second year of his pontificate, on the 14th of August, in the year 1916, a Pontifical Commission, consisting of the Most Reverend Fathers, Doctors Seraphino Manu, Aloysius Sincero, and Maximo Massimi, Prelates and Auditors of the Sacred Roman Rota, in the Roman cause concerning the collation of a benefice, between the Apostolic Datary and the Reverend Chapter of the Vatican, regarding the collation of a vacant benefice in the Basilica of the Vatican, in a second instance, promoted by the same Reverend Chapter against the sentence of the 10th of May of the preceding year, issued by the first Pontifical Commission in the same cause, which second instance was expressly permitted and granted by His Holiness, rendered the following definitive sentence. On the 10th of November of the year 1914, in the city commonly called Montefiascone, the Reverend Frederick Savignoni, a cleric holding a benefice in the Basilica of the Vatican, passed away. The deceased held a benefice, and since the vacancy of this benefice occurred during the time of the Chapter, the Reverend Ascensus Dandini, a canon from Tournon, offered the priesthood to Bernard Bocchini, who had already been incardinated in the Basilica of the Vatican for 23 years. However, the Apostolic Datary contested this collation, firstly because the benefice was reserved by virtue of Rule IX of the Chancery, and secondly because, contrary to the Bull *Dum singularem* of Leo X, it had been conferred upon a non-Roman cleric. Hence, a controversy arose between the aforementioned Chapter and the Apostolic Datary concerning the right of the Reverend Chapter to confer said benefice, and other benefices, either outside the Curia during reserved months, or to confer them upon non-Roman clerics. However, this controversy was settled by the previous Pontifical Commission, with a sentence issued on the 10th of May of the last year.

[*Latin ed. p. 449*]

The Roman Rota, number 449. Concerning a doubt which was agreed upon with these terms: ''Whether, considering the Bull 'Ad honorandam'

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of Benedict XIV, the power which the Chapter of the Vatican has of conferring vacant benefices in its Basilica is subject to the reservation of months contained in Rule IX of the Apostolic Chancery, and to the disposition of the Bull 'Dum singularem' of Pope Leo X," the aforementioned Commission responded: "To the first and second parts of the doubt, affirmatively." However, the Roman Chapter did not agree with this opinion, and insisted before the Supreme [Authority] that the controversy be subjected to a new examination. Therefore, His Holiness, through a letter of June 9th of the preceding year, signed by the Eminent Cardinal of the Secretariat of State, appointed a new Commission, as mentioned above, to put an end to the controversy. Since, therefore, a peremptory term, namely July 11th, had been set for presenting new arguments and documents, if any, the new Commission subjected the doubt, already agreed upon in the first instance, to careful examination, as follows.

CONCERNING THE FIRST PART OF THE DOUBT. - "Whether, considering the Bull 'Ad honorandam' of Benedict XIV, the power which the Chapter of the Vatican has of conferring vacant benefices in its Basilica is subject to the reservation of months contained in Rule IX of the Apostolic Chancery."

To better understand this doubt, it is necessary to consider the dispositions of Benedict XIV in the aforementioned Bull; they are contained in § 39, which deals entirely and solely with the collation of benefices. Benedict XIV distinguishes three kinds of benefices, namely: 1) all and each perpetual benefices, simple, which exist in the Vatican Basilica, and those who are beneficiaries or clerical beneficiaries are called; 2) all and each other benefices dependent on monasteries, abbeys, and priories (united or subject to the Basilica); 3) any other benefices which the Archpriest and Chapter are accustomed to confer.

Therefore, with regard to these three kinds of benefices, Benedict XIV confirms, with the favor of the Archpriest and Chapter, the right of conferring these benefices; or, for some benefices, the right of instituting, or of presenting, "for which the Archpriest and Chapter have been accustomed up to this day." Furthermore, the Pope confirms the ancient custom, by virtue of which the Archpriest and Canons confer these benefices alternately every week, and also the ancient practice concerning the form of expediting letters of such collations or provisions. Finally, the Pope adds this clause: "Nevertheless, saving our right and that of the Apostolic Chancery with regard to the collations of those benefices which, through the person of anyone obtaining them, may become vacant, subject in any way to apostolic affections and reservations."

It is clear, in our case, that...

[*Latin ed. p. 450*]

450 Acta Apostolicae Sedis - The official commentary pertains only to the

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first type of benefices, namely, simple, perpetual benefices existing in the Basilica Vaticana, concerning which we shall therefore speak only. Therefore, it is certain that, considering the provisions of the Benedictine Bulls, the Vatican Chapter has the right to confer said benefices, in the absence of a holder, in any month of the year. It is also certain that the same Chapter has the right to confer said benefices, even if they are vacant outside the Curia, provided that they are vacant during the four months specified in Rule IX of the Ordinary Chancery. Finally, it is certain that the Chapter has no right to the collation of said benefices if, from the person holding the benefice, arise one or more reservations or conditions, wherever, whenever, and however they may become vacant; for example, if the holder is a familiar of the Pope, a Collector, a Cubicularius, a Protonotarius, etc. This exception, which Pope Benedict XIV added to the general concession granted by him to the Vatican Chapter, should be understood to apply only to personal reservations, due to the obvious and natural meaning of the words, but nevertheless, the consequences that the Chapter draws from it, as will be explained below, do not necessarily follow. Therefore, these things are certain; the question arises as to whether the aforementioned power of the Vatican Chapter to confer said benefices is subject to the reservation of months contained in Rule IX of the Apostolic Chancery. The Apostolic Dataria affirms this, while the Reverend Vatican Chapter denies it. First of all, it must be said that the minor benefices of the Basilica Vaticana are, by themselves, subject to the aforementioned reservation of months contained in Rule IX. The words of this Rule refer to "all ecclesiastical benefices, with or without a cure of souls, secular and of any order, qualified in any way and wherever existing, in the months of January, February, April, May, July, August, October, and November, until, at its own good pleasure, they become vacant outside the Roman Curia, except through resignation": these words, "all benefices... qualified in any way and wherever existing," are so general that they do not allow for an exception to be made for benefices of the City; all the more so because the Pope, not wishing to reserve these benefices to himself when they are vacant in the City, precisely distinguished the place of vacancy and reserved them only for benefices vacant outside the Curia. As for the place where the benefices are located, he made no distinction, but reserved the aforementioned benefices wherever they may exist; therefore, it is clear that whatever benefices, even those of the City, are subject to this reservation. This is also confirmed by the fact that the Pope does not exempt from this most general reservation only those benefices that are usually conferred by Cardinals, or

[*Latin ed. p. 451*]

The Roman Rota has ruled on cases concerning the collation of benefices, and it is established that an exception confirms the rule, as is most certain. Therefore, in the year 1663, under Alexander VII, when a certain minor

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benefice of the Vatican Chapter, outside the Curia, became vacant due to the death of the holder during a reserved month and within the Chapter week, it was decided by that particular Congregation, consisting of four Prelates of the Roman Curia, of which Riganti speaks in Part 1 of Rule IX of the Chancery, § 3, n. 2, that this benefice was subject to the reservation of Rule IX. This decision was received and confirmed by Alexander VII in his Motu proprio of April 4, 1664; this Motu proprio did not in any way alter or extend Rule IX, but merely declared, with regard to the case manifestly contained therein. Therefore, when the same case occurred in the year 1671, under Clement X, and in the year 1701, under Clement XI, the same Motu proprio of Alexander VII was observed. Indeed, Clement XI, in a new Motu proprio, as we have learned, of May 4, 1701, declaring and interpreting said Rule IX of the Chancery, decreed that, even for all future times, whenever the same case should occur, the collation of the benefice should remain reserved to the Supreme Pontiff.

Therefore, the question arises whether Benedict XIV, in Constitution *Ad honorandam*, § 39, granted to the Vatican Chapter the collation of the aforementioned benefices, thus, by itself, subjecting them to the reservation of Rule IX. He did not expressly grant this collation to the Chapter, as is evident, and this is beyond dispute; therefore, the question is whether he granted this collation at least tacitly.

Furthermore, this tacit concession cannot be deduced except from the will of the Pontiff to expand the rights of the Vatican Chapter, or from the final clause of § 39 mentioned above: "Saving, however, our own and that of the Apostolic Chancery," or from the most extensive clauses at the end of the Bull, § 67, in which the Pontiff derogates from the Rules of the Chancery. However, it cannot be deduced from the will of the Pontiff to expand the rights of the Chapter.

At the beginning of paragraph 39, the Pontiff truly declares that he intends to assert, confirm, and respectively declare and expand the rights, faculties, and jurisdictions of the Archpriest, Chapter, and Canons, pertaining to the collation of benefices, and to the administration of the churches of the united Basilica. But it is doubtful whether this word "expand" refers to the collation of benefices, or to the administration of the churches of the united Basilica. Indeed, it is more likely that it refers only to the administration of the churches; for, with regard to the collation of benefices, the Pontiff is satisfied to approve and confirm what has been done up to now; nor does he use anywhere the word "expand" to declare that he intends, with regard to this, to expand the rights of the Chapter, or to suppress the aforementioned law and practice regarding the reservation of benefices vacant during the apostolic months; with regard to the other.

[*Latin ed. p. 452*]

452. The Acts, Official Commentary on the Apostolic Constitutions,

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namely, the administration of the Basilica's unified churches, and various chapters' rights, indulgences, and privileges, are declared, expanded, and extended in the following paragraphs, cf. especially §§ 45, 51, 57, 58, 59. But whatever that may be, a certain expansion of the chapter's privileges cannot be deduced from ambiguous, obscure, and equivocal words, let alone a tacit granting of the collation of benefices to the Chapter, subject to the ninth rule of the Chancery. Nor can this tacit granting be deduced from the final formula of § 39, already cited above: "Saving, however, to Our and the Apostolic Chancery's right regarding the collation of those benefices, which are reserved by reason of the person, etc."; from these words, the Reverend Chapter Commission effectively argues that the Pope tacitly granted the Vatican Chapter the collation of benefices reserved by the ninth rule. And this is the principal argument on which the aforementioned Commission relies. But this argument does not hold. For, in order that a tacit concession, especially in a matter prejudicial to the rights of the Apostolic See, may be affirmed, it must be clearly deduced from the words of the concession, so that it cannot be avoided, and the words of the concession cannot be given any other legal interpretation: "It is necessary," says the Rota in Tirasonen, "that the words [of the concession] be such that they necessarily conclude the exclusion of the reservations, and that they be incompatible with them, and cannot be drawn to any other legal interpretation." Furthermore, from the words of the concession contained in § 39 of the Bull, the tacit concession, of which we are speaking, does not clearly and necessarily follow. Indeed, if the Pope had said: "I grant the Vatican Chapter the faculty of conferring all benefices, even those reserved, saving Our right regarding those reserved by reason of the person," perhaps it could be deduced that the Pope left the benefices reserved for another reason, e.g., by reason of time, to the disposition of the Chapter; since there are only four kinds of reservations, namely, by reason of the thing, the person, the place, and the time (here we are not speaking of a reservation by reason of the thing), the Pope, retaining only the benefices reserved by reason of the person, would seem to have left other benefices reserved, e.g., by reason of time, to the disposition of the Chapter; for the inclusion of one is the exclusion of the other. But the Pope did not say: "I grant the Chapter the faculty of conferring benefices, even those reserved," but only: "I grant, or I affirm and confirm, the Chapter the faculty of conferring all perpetual simple benefices that exist in the Vatican Basilica"; this general concession does not extend to reserved benefices; just as the faculty of absolving from sins does not extend to reserved cases (cap. Si episcopus, 2, De Paenitentiis et Remissionibus, in VI), nor does the faculty of dispensing from vows extend to reserved cases, so neither does

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the faculty or privilege of conferring benefices.

[*Latin ed. p. 453*]

St. Montana Bofa 453 extends to the reserved offices, but it must always be understood that it is to be exercised according to the norms of common law, and therefore, with the reservations of the Apostolic See. Therefore, when the Pope does not say: "I grant the Chapter the power to confer benefices, even reserved ones," there is no room for the application of the principle: "The inclusion of one thing excludes another"; but there is room for the application of the Rule of Law, D. L., XVII, 195: "That which is expressly stated is binding, that which is not expressly stated is not binding." Therefore, in the final formula § 39, Benedict XIV mentions only the reservations concerning the person, not because he retains only these for himself, but because they were frequently used, while the reservation concerning time is very rare and accidental, at least for the Vatican Chapter, in which, in fact, the case of this reservation has occurred only three or four times since the time of Alexander VII. In other words, there are two types of benefices: namely, benefices that are not reserved, and benefices that are reserved. Regarding the former, Benedict XIV, in § 39 of the Bull *Ad honorandam*, left them entirely to the disposition of the Vatican Chapter; but with regard to reserved benefices, he did not grant the Chapter any power whatsoever; for, according to all, the granting of the power to confer reserved benefices is not included in the power to confer benefices. Therefore, when the Pope, speaking of a certain type of these reserved benefices, namely, those reserved concerning the person, declares that he retains this for himself, this formula does not mean that the Pope is granting the Chapter other types of reservations, since he has not granted the genus itself. Therefore, there is no room here for the application of the principle: "The inclusion of one thing excludes another," a principle that, elsewhere in canon law, is subject to many limitations, as taught by Barbosa, *Axiomata Iuris*, axiom 120, n. 11-17. Hence, the following words of the Roman Capitular Commission are not true (*Novae deductiones*, page 7): "But if (the Pope) had granted the collation of 'simple benefices, with a reservation of months, it would be understood that he had renounced other reservations, simply because he had wanted to limit that general power with that single reservation. But he did not, etc." For, in § 39 of the Bull, when the Pope grants the Vatican Chapter the power to confer simple benefices, he thereby intends that power to be limited by all Apostolic reservations; therefore, when, at the end of the paragraph, he expressly declares that he retains for himself one of these types of reservations, this declaration does not mean that the Pope is renouncing other types of reservations (otherwise he would contradict himself), but means that he intended to specifically mention this type, either because it was frequently used, as mentioned above, or because there were special difficulties concerning it, or for other reasons which the

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interpreter is not obliged to give. Here, let us say again, is the place for the application of the Rule: "That which is expressly stated is binding, that which is not expressly stated is not binding."

[*Latin ed. p. 454*]

454 Acta Apostolicae Sedis - Official Commentary. Furthermore, the most learned Capitular Commission, under Benedict XIV, when granting the Chapter the collation of simple benefices, and retaining personal reservations for itself, did not in any way renounce other reservations. For example, it did not renounce reservations ratione loci, that is, reservations due to a vacancy at the Seat. For all know that even benefices of the City are subject to reservation due to a vacancy at the Seat or in the Curia; that is, when the beneficiary is a Curial and dies at the Seat or in the Curia. "In order that benefices of the City may be subject to reservation due to a vacancy at the Seat or in the Curia, three things are required," says Riganti in *Regula I Cancellariae*, § 1, n. 129, "namely, that the beneficiary has died as a Curial; that he has retained this status until his death; and that he has died in the Curia." Cf. also ibid., n. 118, 124. And what are Curials, Riganti explains extensively, ibid., n. 130 seq. Moreover, Benedict XIV, in § 39 of the Bull, despite the final formula of this paragraph, cannot be said to have renounced this reservation due to a vacancy at the Seat. Gonzalez says, in *Ad Regulam VIII (IX) Cancellariae*, Glossa 13, n. 35: "This reservation of a vacancy at the Seat is stronger and more forceful and of greater prerogative than all other reservations. And therefore, unless there is a special and individual mention of it, it is not considered included in any disposition of the Pope, nor enumerated." Likewise, Riganti, loc. cit. n. 354. And this is the unanimous opinion of the doctors. Therefore, although, in § 39 of the Bull, Benedict XIV seems to retain only personal reservations, and therefore, as the Most Reverend Capitular Commission says, to renounce other reservations, he nevertheless did not renounce the local reservation. And what we say about benefices of Curials vacant at the Seat, namely, that the Pope has not renounced the reservation of these, the same must be said about many other kinds of benefices, for example, about benefices which are resigned into the hands of the Pope, the one accepting the resignation; about benefices by which the beneficiary is deprived by a sentence from the Pope or in his name; about benefices which become vacant by force of a decree of the Pope for their dismissal. Certainly, no one would say that Benedict XIV renounced these reservations, and that the Vatican Chapter, given the opportunity, could confer these benefices; and yet these benefices are not reserved or affected ratione personae. Therefore, as we say again, these words of the Most Reverend Capitular Commission are not true: "But if (the Pope) had conceded the collation of simple benefices, saving the reservation of months, it would be understood that he had renounced all other reservations, simply because he would have

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wanted to limit that general faculty with that single reservation. But he did not, etc." These words are not true, and therefore it is false that Benedict XIV, in the final clause of paragraph 39,

[*Latin ed. p. 455*]

The Roman Rota, retaining for itself only the expressly stated personal reservations, has left all other matters to the disposition of the Vatican Chapter. Therefore, the broadest clauses at the end of the Bull, § 67, remain in force, by which the Supreme Pontiff derogates from the Rules of the Chancery: "Notwithstanding, as it may be necessary, Our and the Chancery's Rules," the very words of which are declared to be expressed verbatim. But from these clauses, it cannot be deduced a tacit concession of the faculty of conferring benefices reserved for a period of months. For: 1° In the clauses usually appended at the end of Bulls, which it is to be carefully noted, there is no concession made, but only obstacles or impediments are removed that might possibly obstruct the concessions made in the body of the Bull; which is also what Benedict did: hence he said: "Notwithstanding, as it may be necessary, etc."; that is, if any or several of the concessions made above in the body of this Bull should be contrary to one or more of the Chancery Rules, we derogate from these Rules; therefore, the aforementioned tacit concession is not to be sought in these clauses § 67. 2° Even setting aside this observation, it must be said that no argument can be deduced from the aforementioned clauses to prove the aforementioned tacit concession. For the Rule IX of the Chancery, which concerns the reservation of benefices for months, is of such a nature that nothing contrary to it should ever be considered conceded, unless there is a special and individual derogation from this Rule. The reason for this is derived from the strongest and most unusual clauses with which this Rule is endowed. Indeed, in Rule IX, the Supreme Pontiff, after having reserved for himself all benefices outside the Curia for the designated period of eight months, adds: "Wishing... privileges, even those granted at the very inception, and "apostolic indulgences concerning them, and also the power to dispose of such benefices, or that these under such reservations should never be included, even with any derogations, and more powerful, efficacious, and unusual clauses, nor with nullifying and other "decrees, the tenor of which he wished to be held as expressly stated and to be extended most broadly, to any persons and colleges, of whatever dignity, rank, "status, order, and condition, existing in any manner, so that such reservation should in no way be prejudicial." Therefore, with these words, whenever the Supreme Pontiff, at the beginning of his pontificate, renews the Rules of the Chancery, and in particular this Rule IX, he suppresses all indulgences or privileges that his predecessor may have granted, even with unusual and unrestrained clauses, of conferring benefices reserved for a period of months, and in doing so, and indeed

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most clearly, he manifests his will to retain these benefices, in this manner reserved, to himself always and firmly. Therefore, here the rule 81 of the Iuris in V I should be applied: "In a general concession, those things do not come which "he would not have likely conceded in a specific case"; and therefore, unless the Pope -

[*Latin ed. p. 456*]

456 Acta Apostolicae Sedis - Commentarium Officiale. This rule makes individual mention of a case, and it is considered to concede nothing contrary to it. Indeed, before the time of Alexander VII (1655-1667), who is the author of Rule 71 (which will be discussed later), the opinion of the doctors was that, in order to derogate from the rules of the Chancery, especially the notable, well-known, and most of all, judicial ones (which judicial rules are opposed to the "diplomatic" rules, or those concerning the manner of preparing documents), such as Rule IX, a special and individual derogation was required, and that this general derogation would not suffice: "notwithstanding the rules of the Chancery"; so teach Gomesius, in the *Commentaries on the Rules of the Apostolic Chancery*, in the Preface; Hieronymus Paulus of Barcelona, in *The Practice of the Chancery* (cited by Riganti, on Rule 71 of the Chancery, nos. 16-17); Pyrrhus Corradus, in *The Practice of Apostolic Dispensations*, book 1, chapter 6, no. 13; Barbosa, Clause 83, no. 37; Lotterius, in *On Church Benefices*, book II, question 39, nos. 15-19, who explicitly speaks of the rule concerning reserved months. Thus also, the Sacred Rota has ruled several times, for example, in Decree 569, no. 7, part II of Recent Decisions, in which we read: "It seemed necessary to add that, insofar as it would appear that a right to confer [benefices] in reserved months had been conceded, a special derogation of the rule would be necessary, as has been repeatedly affirmed in the Rota, by Sarnensis... Felinus, Rebuffus, Cassadorus, Mandosa..." "This does not contradict the clause 'Quarum tenores, et aliae ex adverso pondératae,' because they are accessory clauses, which do not contradict the principal disposition, but only remove the possibility of objection..." "The same is answered regarding a 'nullifying decree'; thus also, in Decree 101, in Urgellen. - Plebaniae, December 11, 1730, before Crescentius, nos. 13, 14. This doctrine and jurisprudence have been further strengthened after Alexander VII, who, in addition to the seventy rules in force during his time, added the seventy-first rule, by virtue of which the rules of the Chancery are not included in general derogations, and therefore require a special and explicit derogation. Therefore, considering this provision, Riganti concludes, in Rule 71 of the Chancery, no. 20: "Today, considering that provision, the aforementioned clauses are by no means sufficient, because it is considered that each rule of the Chancery, in order to be derogated from, requires a special and explicit mention, and that general clauses, even if very broad and effective, do not suffice, because they lack the force of a special and individual ex-

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pression. Therefore, although the clause 'Notwithstanding the rules of the Chancery, the tenor of which, etc.,' may seem to take precedence over their individual expression, and may operate more effectively, today it is by no means suitable for derogating from the rules." And this was well known by Benedict XIV, who, in the Constitution *Ad honorandam*, when he wished to derogate from two specific rules of the Chancery, namely Rule XVIII concerning the non-abrogation of acquired rights, and Rule LIV concerning indulgences not to be granted in the manner of others, he derogated from them specifically and by name, saying,

[*Latin ed. p. 457*]

S. Bomana Bota 457 § 67: "Notwithstanding Our regulations and those of the Apostolic Chancery, even those privileges which have been legitimately questioned and those indulgences which are not to be granted, 'by way of example.' Furthermore, concerning Rule IX, not the slightest mention was made; therefore, it is a clear sign that that most learned Pontiff did not intend to grant any privilege or dispensation contrary to this Rule. Therefore, it cannot be demonstrated that Benedict XIV tacitly granted to the Vatican Chapter the faculty of conferring benefices subject to a reserved period of time. But, for the sake of abundance of law, even if I were to admit that this Pontiff granted this privilege to the Chapter, nevertheless, the Reverend Chapter cannot make use of this privilege; for it is extinguished with the death of the granting Pontiff. For, as we stated above, Rule IX contains a clause by which any Pontiff, renewing this rule at the beginning of his pontificate, suppresses all indulgences and privileges granted by his predecessor, which are contrary to this Rule, even if they were granted 'with any derogations, and with more forceful, more effective, and more unusual clauses, as well as with invalidating and other decrees, the tenor of which were to be held to be expressly stated and to be extended most broadly.' Therefore, Clement XIII, who succeeded Benedict XIV in the year 1758, completely suppressed and annulled the aforementioned privilege of the Vatican Chapter, if it had ever been granted to it by Benedict XIV; which was all the easier to do, because this privilege had been granted only tacitly and obscurely. It is also necessary to add Rule XV of the Chancery, by which a new Pontiff also suppresses and annuls all indulgences and privileges granted by his predecessors to any person concerning the disposition of reserved benefices; for although this Rule says, 'granted to any person,' it is clear that this also applies to moral persons, or to colleges and chapters, because the Rule also speaks of elective benefices, which involve the body of electors. Therefore, if any Pontiff grants to any person or chapter the privilege of conferring reserved benefices for a period of time, this privilege does not last, nor can it last, except during the lifetime of the granting Pontiff, whatever clauses that privilege may be endowed with. Thus, unanimously, the Doctors who have treated this particular point state: e.g., Lot-

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terius, *De re beneficiaria*, book II, question 39, numbers 15-19; Pitonius, *Disceptationes eccles.*, disputation 150, number 8, and *De Controversiis Patronorum*, Allegation 100, numbers 206-207; Riganti, *In I partem Regulae IX*, § 5, numbers 41-42. Thus also, constant jurisprudence of the Sacred Roman Rota: cf. decree 200 throughout, Part IX of Recent Decisions; decree 343, numbers 8-11, Part XVI of Recent Decisions, and many others, which Riganti cites, in the aforementioned place. In decision 101, *Urgelen. Plebaniae*, December 11, 1730, before Crescentio, of the Sacred Roman Rota, considering Rules IX and XV of the Chancery, it is declared that there is no privilege or indulgence for conferring reserved benefices..."

[*Latin ed. p. 458*]

45S Acta Apostolicae Sedis - Official Commentary: Regarding the duration of acts granting benefits for a specified period, or the granting of benefits reserved for a certain month (which two are assimilated in Rule IX), it is permissible for them to extend beyond the lifetime of the granting Pontiff, and there can be no case in which similar grants would be valid after the death of the grantor. And the reason for these decisions is clear; for the Pontiff, as Lotterius also notes (loc. cit.), cannot impose laws upon his successors; but the successor, by renewing Rules IX and XV of the Chancery with their clauses, thereby and immediately revokes the privilege granted by his predecessor. Therefore, even if we were to suppose that Benedict XIV granted the Chapter of the Vatican the privilege of conferring benefits, of which we are speaking, even for a reserved period, Clement XIII, his successor, by renewing the aforementioned Rules, would have abrogated this privilege; which would have been all the easier, as has already been noted, if this privilege had been granted only tacitly and obscurely. Therefore, having considered all of these things, with regard to this first part of the doubt, we respond that, with respect to the faculty that the Chapter of the Vatican has, by the Bull of Benedict XIV *Ad honorandam*, of conferring benefits to its Basilica when they are vacant, this faculty is subject to the reservation of months, as contained in Rule IX of the Apostolic Chancery.

ON THE SECOND PART OF THE DOUBT. - "Whether, considering the Bull of Benedict XIV *Ad honorandam*, the faculty that the Vatican Chapter has of conferring vacant benefits in its Basilica is subject to the disposition of the Bull *Dum singularem* of Pope Leo X."

The Bull *Dum singularem* of Leo X, issued in the year of the Incarnation of the Lord 1513, on the 14th day before the Kalends of April, contains, in § 4, the following provision:

"§ 4. And that within the city of Rome, the monasteries of Saint Gregory, Saint Sebastian, Saint Benedict, and the Cistercian Order, and other monasteries and priories, canonries and prebends, dignities, positions, administrations, and offices, and other ecclesiastical benefits, with and without cure, existing in the aforementioned city and district (with the exception of

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monasteries, but including the Venerable brothers, our cardinals, by their titles and denominations, and the archpresbyterates of the basilicas of the Holy Apostles Peter and Paul and of the Lateran, and of the Basilica of the Most Holy Mary Major, within the same walls, of the same Orders, which are usually entrusted to these cardinals), may not be conferred or entrusted to anyone other than Roman citizens, or to others in any way, except if the aforementioned benefits were vacant due to the resignation of a foreigner, which may also be conferred upon foreigners, and in no way can they be disposed of by us or by the Apostolic See; and that all collations, provisions, entrustments, and other dispositions regarding them..."

[*Latin ed. p. 459*]

St. Roman Bota 459: "These [provisions], even through us and the same Holy See, even with explicit derogation of the present [laws], even by papal decree and with certain knowledge, made for a time," have "no validity or importance whatsoever, and no one, even with a pretext, can claim any title of possession based upon them." Therefore, Pope Leo X commands that all benefices of the City [of Rome] (with the exception of certain ones, namely, cardinalatial titles, the three Archpresbyterates of the Basilicas of Rome, and certain monasteries customarily granted to cardinals in commendam) be conferred only upon citizens of Rome, under penalty of nullity.

The question arises: I. Whether the authority of the Chapter of the Vatican to confer benefices of the Basilica is subject to the aforementioned provision; II. Whether the phrase "citizens of Rome" should be restricted to those of original citizenship, or whether it also includes those who have established domicile there.

Regarding the first question, the affirmative must be answered. For, on the one hand, the Leonine Bull grants to the Roman people and clergy a privilege of the greatest importance, which is rightly assimilated to a passive right of patronage, namely, that benefices of the City, with very few exceptions, must be conferred only upon citizens of Rome. Furthermore, it cannot be said that this privilege ceased with the cessation of the subject [to which it applied]: indeed, certain privileges granted by the Leonine Bull have ceased with the cessation of the subject, e.g., the privileges that the Bull granted to the Conservators of the City, because these Conservators have completely ceased to exist; but the Roman people and clergy have in no way ceased to exist, and therefore the benefice pertaining to them remains; all the more so because "it is fitting that a concession made by a Prince should remain" (Rule 16 of the Juris in VI), and "favors tend to be extended" (Rule 15, ibid.). On the other hand, this privilege has not ceased by revocation, namely, by a revocation or derogation made by Benedict XIV in the Bull *Ad honorandam*. For this Bull of Benedict XIV does not touch the Leonine Bull; indeed, with regard to the benefices of the Vatican Basilica, the Bull of Benedict XIV deals only with the right to confer them, and

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not with the qualifications or merits of those to be promoted; therefore, in this respect, the matter remains in the same state as before, namely, under the provisions of the Leonine Bull. Therefore, the derogatory clauses that are placed in § 67 of the Bull of Benedict XIV are irrelevant; for there was no reason for Benedict XIV to derogate from the Leonine Bull, since in his own Bull he commanded, permitted, or disposed of nothing contrary to the Leonine Bull. Furthermore, the privilege in question has not ceased by disuse or non-use, since, on the contrary, as testified by the Datary [official record keeper], the benefices of the Vatican Basilica have always been conferred in accordance with the Leonine Bull, or with its express dispensation.

Regarding the second question, the answer is clear from the very wording of § 4 above, namely, that the phrase "citizens of Rome" should be restricted.

[*Latin ed. p. 460*]

The Acts of the Apostolic See – Official Commentary 460 pertains only to original citizens, and cannot be extended to those domiciled there, much less to those with privileges. Pope Leo X ordered that the benefices of the City be conferred only upon Roman citizens, "unless the aforementioned benefices become vacant through the resignation of a foreigner, in which case they may also be conferred upon foreigners." It is clear that a Roman citizen is opposed to a foreigner, that is, a Roman citizen by birth, to one who was born elsewhere, since this is the obvious and natural meaning of the word "foreigner." Furthermore, from these very words, it is clear that Pope Leo X, in his law, made an exception, namely, when a foreigner possesses a benefice, and then resigns it; then Leo allows that it may be conferred even upon a foreigner. But it could certainly happen that a foreigner, possessing a benefice, possessed it, before the resignation, for twenty, thirty, or even forty, and more, years, and thus became a domiciled citizen; nevertheless, he remains and is always called a foreigner, and his benefice is called a foreign benefice, so that it may also be conferred upon a foreigner; therefore, it is clear that, in the mind and will of Pope Leo X, the right of citizenship, acquired by domicile, did not serve to acquire benefices of the City, but rather the right of citizenship, acquired by origin or birth, was required. Therefore, although in other matters, and even in matters concerning benefices, the word "citizens" includes even domiciled citizens (cf. De Luca, De Praeeminentiis, discourse 37, n. 3; and in the Summary n. 94, 100; Ferraris, Bibliotheca, v. cives n. 42, 54, 62), nevertheless, in our case, as the Pope willed it, the expression "Roman citizens" must be restricted to original citizens. And so the law was interpreted according to custom; which is testified by Riganti, In Regulam XVII Cancellariae, n. 179: "Such also seems to be the meaning of the Dataria and the Chancery, which, by derogating from the indulgences and privileges of the Roman people, expressly assumes that these were granted to original citizens."

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This custom also remained in force until our time, as testified by the writer of the Dataria: "The practice of the Dataria has always been consistent in placing this derogation in the conferral of benefices of Rome to foreigners, as can be seen in the Books of Provisions, even from the time of Benedict XIV." And more examples are cited from the Books of Provisions, dating back to the year 1862. Therefore, even to the second part of the question, an affirmative answer must be given, and that is, that the expression "Roman citizens" must be understood to refer only to original citizens. Therefore, having considered and carefully examined all matters, both in law and in fact, and invoking the name of Christ, We, the undersigned Auditors of the Sacred Roman Rota, especially appointed by His Holiness to re-examine and define this matter, sitting as a Tribunal, and with God alone before us,

[*Latin ed. p. 461*]

Having considered the matter before us, We, the Sacred Roman Rota, do hereby decide, declare, and definitively pronounce that the Reverend Chapter of the Vatican, in the granting of perpetual and simple benefices of the Basilica, is subject both to the reservation of vacancies as contained in Rule IX of the Chancery, and to the disposition of the Bull *Bum singularem* of Leo X; and therefore, having confirmed the prior judgment rendered by the Pontifical Commission on the 10th of May of this year, 1916, We respond as follows: To the first part of the question: Affirmative. To the second part of the question: Affirmative, understanding by the words "citizens" those originally from Rome.

Given at Rome, on the 14th of August of the year 1916.

Seraphinus Many, Auditor of the Sacred Roman Rota.

Aloysius Sincero, Auditor of the Sacred Roman Rota.

Maximus Massimi, Auditor of the Sacred Roman Rota.

[*Latin ed. p. 462*]

Acts of the Apostolic See - Official Commentary, DIARY OF THE ROMAN CURIA, SACRED CONGREGATION OF RITES. On the first day of November, the 4th, in the year 1916, in the Vatican Apostolic Palace, with the presence of the Most Reverend Lords Cardinals, and of the Most Reverend Prelates, Officials of the theological Consultors, of the Sacred Rites, for the intercession of the Order of Beatification, another miracle of God, the Servant of God, of the same Order, which occurred in Augusta, was presented. On the 28th of November, in the same year, the Sacred Congregation of Rites, which is composed of the aforementioned, held a session in the Vatican Apostolic Palace, before the Most Reverend Lords Cardinals and Prelates, to discuss everything pertaining to the solemn beatification of the Venerable Priest, Anna, founded by Saint Bartolomeo, whose miracles are held in high esteem. The Most Reverend Prelates, after deliberation, proposed to the Sacred Congregation the cause for the heroic Canoness,

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Monaca, who is held in veneration. In the year 1916, the Holy Father, in the presence of the theological Consultors of the Sacred Rites, held a session to discuss the case of two Discalced Carmelites: Giuseppe Garicoits, Founder of the Little House of the Divine Heart of Jesus, in the diocese of Turin; and Michele, Priest, Founder of the Congregation in Baiona.

SECRETARY OF STATE, APPOINTMENTS. By letters from the Secretary of State, the Holy Father deigned to appoint:

November 4, 1916. The Most Reverend Giulio Boschi, Archbishop, Protector of the Pious Society of Feretrana of the Hundred Priests.

November 8. The Most Reverend Cardinal Domenico Serafini, Protector of the Congregation of the Religious of the Assumption.

November 17. The Most Reverend Cardinal Giovanni Cagherò, Protector of the Institute of the Sisters Adorers of the Most Holy Sacrament, who have their Mother House in Buenos Aires.

Monsignor Augusto Boudinhon, Consultor of the Sacred Congregations of the Sacraments, of the Council, and of the Seminaries and Universities of Studies, of Ferrara.

[*Latin ed. p. 463*]

From the Roman Curial Diary 463, with Apostolic Briefs, the Holy Father has deigned to appoint:

To the Papal Seat:

November 15, 1916. — Monsignor Michele Zezza, Bishop of Pozzuoli.

Apostolic Protonotaries, as if participating:

October 25, 1916. — Monsignor Giuseppe Martin, of the diocese of Segni.

November 15. — Monsignor Michele Glancey, of the archdiocese of Birmingham.

Domestic Prelates of His Holiness:

October 17, 1916. — Monsignor Carlo Mause, of the diocese of Treves.

October 19. — Monsignor Giacomo Coyle, of the diocese of Falls-River.

October 24. — Monsignor Giacomo Mastripietri, of the diocese of Pistoia.

October 26. — Monsignor Paolo Badiani, of the diocese of Prato.

October 30. — Monsignor Giuseppe Romano, of the diocese of Cava and Sarno.

November 15. — Monsignor Giuseppe Marcarelli, of the diocese of S. Agata dei Goti.

November 23. — Monsignor Angelo Bonaiti, of the diocese of Cremona.

November 23. — Monsignor Angelo Fongoli, of the diocese of Foligno.

HONORS

With Apostolic Briefs, the Holy Father has deigned to bestow the following honors:

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The Order of Saint Gregory the Great, civil class, Commander:

October 20, 1916. — To Mr. Gennaro De Simone, of the archdiocese of Naples.

November 7. — To Mr. Arnoldo Cremer, of the diocese of Paderborn.

November 22. — To Mr. Baron Lorenzo Zampaglione, of the archdiocese of Naples.

The Order of Saint Gregory the Great, civil class, Knight:

October 17, 1916. — To Mr. Carlo Driessen, of the diocese of Treves.

October 17, 1916. — To Mr. Federico Springmuehl, of the archdiocese of Colonia.

October 22. — To Mr. Giovanni Redaelli, of the archdiocese of Milan.

October 27. — To Mr. Carlo Jaegle, of the diocese of Columbus (Ohio).

November 18. — To Mr. Andrea Coppa, of the archdiocese of Milan.

November 23. — To Mr. Sante Ubaldi, of the diocese of Foligno.

The Order of Saint Sylvester the Pope, Commander:

November 10, 1916. — To Mr. Giovanni Oscar Kuehlen, of the archdiocese of Colonia.

[*Latin ed. p. 464*]

464 Acta Apostolicae Sedis - Official Commentary

The Knighthood of the Order of St. Sylvester the Pope: October 20, 1916. – To Mr. Paolo Casini, of Rome. October 22. – To Mr. Dr. Garlo Albizzati, of Rome.

THE HOUSEHOLD OF HIS HOLINESS

By the grace of His Holiness, the following were appointed:

Secret Chamberlains of His Holiness:

October 31, 1916. – Monsignor Placido Ilario Henriques, of the diocese of Damao. – Monsignor Pietro Giovanni Elia Moniz, of the same diocese. – Monsignor Carlo Bajko, of the diocese of Vilna. – Reverend Father Antonio Daniszewski, of the same diocese.

November 4. – Monsignor Eugenio Iannotta, of the diocese of S. Agata de Goti. – Monsignor Sebastiano Siciliano, of the archdiocese of Nola.

November 8. – Monsignor Andrea De-Stefano, of the archdiocese of Amalfi.

November 24. – Monsignor Pio Casetta. – Monsignor Luigi Campa.

Secret Chamberlain of Sword and Cape of His Holiness:

November 24, 1916. – Mr. Count Riccardo Ceccopieri.

Honorary Chamberlains in purple attire of His Holiness:

November 8, 1916. – Monsignor Nicola d'Acunzo, of the archdiocese

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of Naples. – Monsignor Silvio Fagiolo, Substitute of the Sacred Apostolic Penitentiary.

Honorary Chaplain outside of Rome of His Holiness:

September 28, 1916. – Monsignor Pasquale Marrocco, of the diocese of Alife.

NECROLOGY

August 25, 1916. – Monsignor Giovanni Lancaster Spalding, titular Archbishop of Seitopoli.

September 27. – Monsignor Modesto Augusto Vieira, titular Bishop of Archelaide, auxiliary of the Archbishop of Marianna in Brazil.

November 6. – The Most Reverend Cardinal Francesco Salesio Della Volpe, Chamberlain of the Holy Roman Church, Prefect of the Holy Congregation of the Index.

November 9. – Monsignor Antonio Stillemans, Bishop of Gand.

[*Latin ed. p. 465*]

Year VIII - Vol. VIII, December 9, 1916, No. 13.

ACTA APOSTOLICAE SEDIS, OFFICIAL COMMENTARY.

ACTS OF POPE BENEDICT XV.

SACRED CONGREGATION.

On December 4, 1916, a secret Consistory was held in the Apostolic Palace at the Vatican, the Acts of which are reported in order:

I. - ADDRESS OF HIS HOLINESS, POPE BENEDICT XV, AND THE CREATION OF CARDINALS OF THE HOLY ROMAN CHURCH.

VENERABLE BROTHERS.

Since those matters which are usually brought before this Apostolic See from all quarters, cannot all be treated in the Consistory, as was formerly the case – for they are more frequent each day, and many of them do not admit of delay – we maintain the distinguished custom received from our Predecessors, that if anything should occur which concerns the Christian Republic, we will communicate it to you, having convened you in a solemn assembly. It is most pleasing to Us that we may bring such a great and opportune matter for the Church before you, so that, through its grace, this age may seem worthy of note to those who come after. We speak of the

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blessed ACTA, vol. VIII, no. 13. – 9-12-1916. 31.

[*Latin ed. p. 466*]

466 Acta Apostolicae Sedis - An official commentary, which We, according to your own wishes, intend to publish as soon as possible. For We remember well the day when We received the insignia of the highest Pontificate, when We were greeted by our most esteemed and venerable brother, Cardinal Anthony Agliardi, in the name of your distinguished Order. Indeed, Venerable Brothers, you are not unaware that the laws and prescriptions, established by the provident care of the Mother Church, from the very beginning, have grown over the centuries like a cumulative accumulation, so that it is not easily possible for even the most learned jurist to grasp them all. Moreover, many of the established canons, having become unsuitable due to the changes of times, needed to be amended with suitable prudence. Therefore, it became apparent that, in order to determine which laws and institutions were valid in the Church, it was necessary to compile a code from the laws of the Church, which could be easily consulted: this was not only desired by Bishops and Clergy, but by all who devoted themselves to the study of Canon Law. The Apostolic See itself had long had this in mind, but always faced great difficulties in undertaking this task. Indeed, it was divinely ordained that the praise due to Our predecessor of blessed memory, Pope Pius X, who so greatly deserved this honor for the Church, should be rendered. You know, Venerable Brothers, with what eagerness of spirit he began this immense work almost immediately upon assuming the Pontificate, and with what subsequent diligence and constancy he pursued it while governing the Church. Although he was not able to complete the work, he must be considered the author of this Code, and therefore his name, like that of Innocent III, Honorius III, and Gregory IX, the most illustrious Popes in the history of Canon Law, will forever be associated with it. It will be sufficient for Us if We are permitted to publish what he began. Now, let all, both individually and collectively, who are the Vicars of Jesus Christ, express their gratitude to those who, from the College of Cardinals, from the order of Bishops, from both the clergy, and from the very number of lay people, have contributed something to this work, for their own.

[*Latin ed. p. 467*]

From the acts of Pope Benedict XV, page 467: Each one, with diligence and industry, has contributed. And as we gladly fulfill this with a certain pleasing and agreeable office, which our predecessor entrusted to us, we seem to be performing a task. Indeed, we wish to offer special praise and thanks to our beloved son, Cardinal Peter Gasparri, who, from the very beginning, bore a greater burden than others in the preparation of the Code, and who, in doing so, not only demonstrated his outstanding ability

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and knowledge of law, but also his perseverance in study and work, a perseverance which he did not cease, even after he began to be occupied with other important duties as Prefect of Public Affairs. Therefore, we are confident that this work, of the greatest importance and timeliness, will be of great benefit in strengthening the foundations of ecclesiastical discipline, for by making the laws of the Church more widely known, it will greatly aid in their observance, to the benefit of souls and to the increase of the Catholic name. This is certainly true in any human society, and in the very civil association of all nations: where there is strict adherence to the laws, there the affairs flourish abundantly in the bosom of peace; but where the authority of the laws is often neglected or scorned, there, with discord and greed prevailing, all things are disturbed, both privately and publicly. And if this needs confirmation, the course of events in which we find ourselves provides the strongest confirmation. Does not the madness of this war, which brings devastation to Europe, proclaim how much ruin and destruction can result from the contempt of those supreme laws by which the relations between nations are regulated? In this great gathering of peoples, one can see, or rather, one can lament, that even sacred things and those who administer them, who are even more distinguished, although they are most sacred by divine and human law, are treated with indignity; or that many peaceful citizens, far from their homes, are torn away from their wives and children; or that unfortified cities and defenseless multitudes are harassed by attacks, often carried out from the air; everywhere, such deeds are committed that fill the soul with horror and grief. But we, lamenting this accumulation of evils, and deploring everything that is done unjustly in this war,

[*Latin ed. p. 468*]

The Acts of the Apostolic See – Official Commentary 468, and from whatever source it may originate, repeatedly condemns it; it is, therefore, a most welcome sentiment that God may bring it to pass, so that just as, with the promulgation of the new Code, a period of greater tranquility for the Church, as we hope, and indeed more fruitful, may arise, so too, for civil society, restored by the reverence for law and true justice, peace may quickly dawn, bringing forth the abundance of all good things among the nations, now reconciled amicably among themselves.

Now, before we consider the needs of many churches, it pleases Us, Venerable Brothers, to co-opt several outstanding men into your esteemed College, who, either through the administration of illustrious churches, or through the performance of very important other duties, have demonstrated their zeal and competence to Us in a most remarkable manner. These are: PETRUS LA FONTAINE, Patriarch of Venice; VICTOR AMADEUS RANUZZI DE BIANCHI, titular Archbishop of Tyre, Prefect of Our Pontifical House; titular Archbishop of Ephesus, Assessor of the

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Roman and Universal Inquisition; DONATUS SBARRETTI; AUGUSTUS DUBOURG; titular Archbishop of Rennes; LUDOVICUS ERNESTUS DUBOIS, titular Archbishop of Rouen; THOMAS PIUS BOGGIANI, titular Archbishop of Edessa, Assessor of the Sacred Congregation of the Consistory; ALEXIUS ASCALESI, titular Archbishop of Benevento; ALOISIUS JOSEPHUS MAURIN, titular Archbishop of Lyons; Our Assistant in councils, and also Secretary of the Apostolic Signature; NICOLAUS MARINI, ORESTES GIORGI, Secretary of the Sacred Congregation of the Council.

Besides these who have been named, We have decided to admit two other outstanding men into your College, whom, however, We reserve in Our heart. What do you think?

[*Latin ed. p. 469*]

The Acts of Pope Benedict XV, page 469: And by the authority of Almighty God, and of the holy Apostles Peter and Paul, and Our own, We create and proclaim the following as Cardinals of the Holy Roman Church: Peter La Fontaine, Victor Amadeus, Donatus Sbarretti, Augustus Dubourg, Ludovic Ernest, Thomas Pius, Alexius Ascalesi, Aloysius Joseph Ranuzzi de Bianchi, Dubois, Bogdiani, Maurin, and as Cardinal Deacons: Nicholas Orestes, Marini Giorgi. Furthermore, We create two others, as We have said above, as Cardinals, and We reserve their announcement in Our heart, to be made whenever We deem it fitting. With the necessary and opportune dispensations, derogations, and clauses. In the Name of the Father, and the Son, and the Holy Spirit. Amen. It remains to provide for Our Venerable Brothers the Bishops.

[*Latin ed. p. 470*]

470 Acta Apostolicae Sedis - Official Commentary II. - THE OFFICE OF THE CHAMBERLAIN OF THE HOLY ROMAN CHURCH. Subsequently, the Most Blessed Father, the Chamberlain of the Holy Roman Church, resigned the Reverend and Most Reverend Lord Cardinal Peter Gasparri, formerly Secretary of State of the same Holy See. - APPOINTMENTS OF BISHOPS. In the same Consistory, the Most Holy Lord provided for the following churches with their proper pastors, namely: He appointed the Reverend Father Joseph Marianum Salvador and Barrera, formerly Bishop of Matritensem-Complutensem, as Archbishop of the Metropolitan Church of Valentinae. He appointed the Reverend Father Peter Fumasoni Biondi, canon of St. Mary "across the Tiber," official of the Sacred Congregation for the Propagation of the Faith, and Apostolic Delegate in the Orient, as Archbishop of the titular archiepiscopal church of Diocletana. He appointed the Reverend Father Ulpianus Perez, formerly Bishop of Ibarrensem, as Rector of the Cathedral Church of Bolivarensi. He appointed the Reverend Father Prudentium Melo et Alcalde, formerly Bishop of Victpriensem, as Rector

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of the Cathedral Church of Matritensem-Complutensem. He appointed the Reverend Father Albertus M. Ordoñez, canon and theologian of the Cathedral Church of Conchensis in the Indies, as Rector of the Cathedral Church of Ibarrensem. Furthermore, the Most Blessed Father also publicly appointed other prelates who had already been resigned by Apostolic Letters, either with the pallium or the Fisherman's ring, namely: ARCHBISHOPS: He appointed the Reverend and Most Reverend Lord Leo, a Cardinal Priest of the Holy Roman Church, formerly Archbishop of Pragensem, as Archbishop of the Metropolitan Church of Olomucensis. He appointed the Reverend Father Philippus Prosperus Augouard, of the Congregation of the Holy Spirit, formerly Bishop of Sinidensem, Apostolic Vicar of Upper Congo, as Archbishop of the Metropolitan Church of Cassiopensis. He appointed the Reverend Father Pellegrinus Franciscus Stagni, formerly Archbishop of Aquilanum, Apostolic Delegate in the Canadian region, as Archbishop of the titular archiepiscopal church of Ancyrana.

[*Latin ed. p. 471*]

Acts of Pope Benedict XV concerning the Metropolitan Church of Cardiff: The Reverend Doctor James Roman Bilsborrow, O.S.B., now Bishop of Port-Louis in the island of Africa. Concerning the Metropolitan Church of Rouen: The Reverend Father Louis-Ernest Dubois, now Archbishop of Bourges. Concerning the Metropolitan Church of Saint James of Cuba: The Reverend Father Felix Ambrose Guerra, now titular Bishop of Hamatha. Concerning the Metropolitan Church of Lyons, to which the title of Vienna of the Allobroges is attached: The Reverend Father Aloysius Joseph Maurin, now Bishop of Grenoble.

BISHOPS:

Of the Cathedral Church of Christchurch: The Reverend Matthew Brodie, vicar general of the same diocese.

Of the Cathedral Church of Nottingham: The Reverend Thomas Dunn, canon of the Metropolitan Church of Westminster.

Of the Cathedral Church of Les Cayes: The Reverend Ignatius Le Ruzic, Apostolic Administrator of the same Church of Les Cayes.

Of the Cathedral Church of Haileybury: The Reverend Father Elijah Anieetum Latulipe, now titular Bishop of Catenna, Apostolic Vicar of Temiskamingue.

Titular Bishop of Augile: The Reverend Father Anthony lium Torres and Sanz, now Bishop of Centumfocensis.

Titular Bishop of Eudoxias: The Reverend Father John Pinardi, parish priest in the city of Turin, Auxiliary to His Eminence Cardinal Richelmy, Archbishop of Turin.

Titular Bishop of Sobral: The Reverend Father Joseph Tupinambá da Frota, parish priest of the same city of Sobral.

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Titular Bishop of the Aegean Islands: The Reverend Father James Victor Mariam Rouchouse, a member of the Society of Paris for Missions to Foreign Lands, Apostolic Vicar of Se-Ciuen, in the northwest.

Titular Bishop of Mactaritan: The Reverend Father Emmanuel Prat, of the Order of Preachers, Apostolic Vicar of Amoen.

Titular Bishop of Sasimorum: The Reverend Father Aemilius Bongiorni, vicar general of Brixia and parish priest of the mitred church of Saint Nazarius, Auxiliary to the Right Reverend Bishop of Brixia.

Of the Cathedral Church of De Pace: The Reverend Dionysius Avila, canon dean of the Metropolitan Church of La Plata and doctor of civil law.

Of the Cathedral Churches of Waterford and Lismore: The Reverend Father Bernard Hackett, C.SS.R., superior of the Redemptorist house at Limerick.

[*Latin ed. p. 472*]

472 Acta Apostolicae Sedis - Official Commentary of the Cathedral Church of Lead. Reverend Father John Jeremiah Lawler, already titular Bishop of Hermopolis and Auxiliary to the Most Reverend Archbishop St. Paul of Minnesota. Cathedral Church of Dromore. Reverend Edward Mulhern, parish priest of Innismacsaint in the Diocese of Clogher. Cathedral Church of Guaxupé. Reverend Father Anthony Augustus de Assis, already Bishop of Pouso Alegre. Cathedral Church of St. Rose in Honduras. Reverend Claudius Volio, parish priest and vicar forane of Alajuela. Titular Episcopal Church of Almirensis. Reverend John Baptist Sproll, canon of the Cathedral Church of Rottemburg and vicar general of the same diocese, Auxiliary to the Most Reverend Bishop of Rottemburg. Cathedral Church of Pouso Alegre in Brazil. Reverend Octavius Chagas de Miranda, parish priest of the cathedral church of Campinas. Titular Episcopal Church of Apollonia. Reverend Peter Segura Saenz, doctoral canon of the metropolitan church of Valladolid, Auxiliary to the Most Eminent Cardinal Cos and Macho, Archbishop of Valladolid. Titular Episcopal Church of Chamachensis. Reverend Father Leonid Medina, already Bishop of Pasto, Auxiliary to the Most Reverend Archbishop of BogotÃ¡ in Colombia. Cathedral Churches of Aesernia and Venafrana. Reverend Father Nicolaum Rotoli, of the Order of Friars Minor, Doctor of Sacred Theology. Cathedral Church of Ballarat. Reverend Daniel Foley, parish priest of Terang, in the same diocese. Cathedral Church of Port Victoria, Seychelles. Reverend Father John Damascenus Vovrai (formerly George Lachavane), of the Order of Friars Minor Capuchin. Titular Episcopal Church of Tenedia. Reverend Father Evangelista ab Usselle (formerly Latin Henry Vanni), of the Order of Friars Minor Capuchin, Apostolic Vicar of Arabia. Titular Episcopal Church of Echinus. Reverend Edward Gimbert, ecclesiastical governor in the city of Valparaíso, in the Chilean jurisdiction. Cathedral Church of Guayaquil. Reverend Father

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Andrew Machado, S.J., already Bishop of Bolivarense. Cathedral Churches of Calvensis and Teano. Reverend Calogerus Licata, Doctor of Sacred Theology and of both Laws, Substitute of the Apostolic Penitentiary. Titular Episcopal Church of Letia. Reverend Charles Reth, Prefect of the Domestic Prelature, canon of the Cathedral of Augsburg, Auxiliary to the Most Reverend Bishop of Augsburg.

[*Latin ed. p. 473*]

473 At Benedict XV, the Pope, appointed the Reverend Father of the Cathedral of the Amazon as titular Bishop of Sufetula. Also appointed were: Reverend Father Irenaeus Joffily of the Cathedral of Vich; Reverend Father Francis Muñoz and Izquierdo, archpriest of the Cathedral of Barcelona; Reverend Father Rigobert Domenech and Valls of the Cathedral of Majorca; canon of the Metropolitan Church of Valencia; Reverend Father Gustav Vié of the Cathedral of Monaco; and the general vicar of Aurelian. Reverend Father Horatius, penitentiary of the Church of Bituntina, and Caldarola.

II. - CARDINALS ADORNED WITH THE RED GALA ROO.

On December 7, 1916, a public Consistory was held in the Apostolic Palace at the Vatican, in which Our Holy Father adorned certain Fathers with the red galero, namely, the Cardinals created on December 6, 1915, namely: Cardinal Andreas Francis Frühwirth; Cardinal Raphael Scapinelli di Léguigno; and the Cardinals created on December 4, 1916, namely: Cardinal Peter La Fontaine; Cardinal Victor Amada; Cardinal Ranuzzi de Bianchi; Cardinal Donatus Sbarretti; Cardinal Augustus Dubourg; Cardinal Ludovic Ernest Dubois; Cardinal Thomas Pius Boggiani; Cardinal Alexius Ascalesi; Cardinal Aloysius Joseph Maurin; Cardinal Nicholas Marini; and Cardinal Oreste Giorgi.

II. - PETITION FOR THE INTRODUCTION OF THE CAUSE OF BEATIFICATION OF THE VENERABLE JOHN BOSCO.

Meanwhile, the consistorial advocate, Count Charles Santucci, made the third and final plea for the introduction of the Cause of Beatification and Canonization of the Venerable Servant of God, John Bosco, priest, founder.

[*Latin ed. p. 474*]

474 Acta Apostolicae Sedis - Official Commentary of the Salesian Congregation. When the Most Reverend Promoter of the Faith requested that the Holy Father refer the matter to the Congregation of Rites for the same reason, the Supreme Pontiff responded: "To Our Congregation of Rites, that it may examine and report." SO IT WAS. - PROVISIONS FOR CHURCHES. On the same day, in a secret Consistory, the Blessed Father provided for the following churches with their proper pastors, namely:

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The Patriarchal Church of Antioch of the Latins, the Most Reverend Doctor Ladislaus Zaleski, formerly the titular Archbishop of Thebes and Apostolic Delegate in the Orient. The titular Archbishopric of Thebes, the Most Reverend Doctor Ioannes Baptista Nasalli-Rocca, formerly the Bishop of Eugubium. The Cathedral Church of Carolopolitana, the Reverend Doctor Thomas Russel, domestic prelate of the Holy See, and parish priest of Saint Patrick in the state of Washington. The Cathedral Church of Brunensis, the Reverend Doctor Norbertus Klein, a priest of the Order of Teutonic Knights and the Prefect of Oppavia in Silesia. The titular bishopric of Cybistra, the Reverend Doctor Paulus Nègre, rector of the Major Seminary of Mimatensis, with a mission to assist the Most Reverend Bishop of Vivariensis. Furthermore, the Blessed Father publicly appointed other prelates who had already resigned, through Apostolic Letters, either under the seal of the Fisherman or under the seal of lead, namely: ARCHBISHOPS: The Metropolitan Church of Olinda, the Most Reverend Doctor Sebastianus Lerne da Silveira Cintra, formerly the titular Bishop of Orthosia. The Metropolitan Church of Biturica, the Most Reverend Doctor Martinus Izart, formerly the Bishop of Apamiensem. The titular archbishopric of Mocissa, the Most Reverend Doctor Ioannes Baptista Vinati, formerly the Bishop of Bosanensem. The Metropolitan Church of Saint James of Venezuela (Caracas), the Reverend Doctor Philippus Rincón Gonzalez, urban pastor, parish priest, and vicarious forane of the diocese of Emerita, in the Indies.

[*Latin ed. p. 475*]

475. Acts of Benedict XV, Pope. Regarding the Metropolitan Church of Manila, the Reverend Father Michael, already Bishop of Zamboanga. O' Doherty, of the Metropolitan Church of Prague, the Reverend Father Paul de Huyn, already Bishop of Brünn. Already Bishops: Of the Cathedral Church of Omaha, the Reverend Father Jeremiah James Harty, already Archbishop of Manila. Of the Cathedral Church of Lacedonia, the Reverend Father Francis, penitentiary of the Church of Bisaccia. Maffei, canon of the Cathedral Church of Lamezia Terme, the Reverend Father Eugene Giambro, already Bishop of Sarsina. Of the Cathedral Church of Luzon, the Reverend Father Gustav Garnier, general vicar of Nevers. Of the Cathedral Church of Ajaccio, the Reverend Father Augustine Simeone, canon of the Cathedral Church of Marseilles. Of the Cathedral Church of Fano, the Reverend Father Justin Sanchini, general vicar of the Diocese of Rimini and parish priest of the cathedral church. Of the Cathedral Church of Nueva Pamplona, the Reverend Father Raphael Afamador, general vicar of the Diocese of Socorro. Of the titular episcopal Church of Bergamo, the Reverend Father Honorat Halle, archpriest of the Cathedral Church of Montpellier, auxiliary to the Most Reverend Gard, Bishop of Montpellier, of Cabrières. Of the titular episcopal Church of Sebast, the

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Reverend Father Joachim Mamede da Silva Leite, priest of the Diocese of Campinas, there the diocesan visitor and protonotary, auxiliary to the Most Reverend Bishop of Campinas. Of the titular episcopal Church of Europus, the Reverend Father Tranquil Guarn, transferred from the Cathedral Church of Rieti. Of the Cathedral Church of Beat, the Reverend Father Francis Sidoli, canon and archpriest of the Church of Piacenza. Of the Cathedral Church of Sarsina, the Reverend Father Ambrose Riccardi, general vicar of Feretran. Of the titular episcopal Church of Germ, the Reverend Father John Raynaud, general vicar of Toulouse, auxiliary to the Most Reverend Bishop of Toulouse. Of the Cathedral Church of Soan-Pitilian, the Reverend Father Recared Carlesi, already general vicar of Tivoli. Of the Cathedral Church of Port-Louis on the island of Mauritius, the Reverend Father John Murphy, of the Congregation of the Holy Spirit.

[*Latin ed. p. 476*]

476 Acta Apostolicae Sedis - Official Commentary of the Cathedral Church of Harrisburg, Reverend Philip, prefect of the parochial schools of Philadelphia. Of the Cathedral Church of Nursia, Reverend Vincent Migliorelli, archpriest of the cathedral church of Macerata. Of the cathedral churches of Nepes and Sutri, Reverend Aloysius Olivares, of the Salesian Congregation, parish priest of Saint Mary, Liberator, in the city. Of the titular episcopal church of Pogla, Reverend Raynald Muñoz, priest of the diocese of the Most Holy Conception, governor of the church of the place called Chillán in Chile. Of the Cathedral Church of Pembroke, Reverend Patrick Thomas Ryan, already titular bishop of Clazomen and administrator of the same Pembroke diocese. Of the Cathedral Church of Dacchen in the East Indies, Father Legrand, of the Congregation of the Holy Cross. Of the Cathedral Church of Pamiers, Reverend Peter Marceillac, priest of the archdiocese of Toulouse, and there, parish priest of the church of Saint Jerome. Of the titular episcopal church of Basilinopolis, Reverend Turibius Minquella and Arnedo, already bishop of Segunt in Spain. Of the Cathedral Church of Segunt, Reverend Eustachius Nieto and Martin, priest of the archdiocese of Madrid, parish priest of the church dedicated to the Immaculate Conception in this city. Of the Cathedral Church of Cork, Reverend Daniel Cohalan, already bishop of Vagen, and auxiliary of the same Cork diocese. Of the Cathedral Church of Mysore in the East Indies, Reverend Hippo ytum Teissier, from the Parisian Seminary for foreign missions. Of the Cathedral Church of Iare, or Saint Elizabeth, Reverend Mauritius Patrick Foley, already bishop of Tuguegarao. Of the Cathedral Church of Lipa, Reverend Alfrid Verzosa, parish priest of the place of Bantay, diocese of Nueva Segovia. Of the Cathedral Church of Saint Agatha of Qothorum, Reverend Joseph de Nardis, parish priest of the place of Capri, diocese of Sorrento. Of the cathedral churches of Macerata and Tolentino, Reverend Molaroni, canon and prelate of

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the cathedral church of Pesaro. Of the cathedral churches of Luck and Zhytomyr, perpetually canonically united, Reverend Ignatius Dubowski, parish priest and vice-dean of the cathedral church of Zhytomyr, with a delegation to the administrator of the cathedral church of Camenec. Of the titular episcopal church of Aegea in Africa, Reverend Michael Godlewski, master of the ecclesiastical academy of Petersburg, auxiliary to the Bishop of Luck and Zhytomyr.

[*Latin ed. p. 477*]

Acts of Pope Benedict XV, Book IV, year 477.

REQUEST AND GRANTING OF THE SACRED PALLIUM. Then, the Most Blessed Father granted the sacred Pallium to the churches of Lyons, Bothomagen, Bourges, Saint James of Cuba, Olinda, Saint James of Venezuela, of Manila, Valencia, Prague, Fortaleza, raised to the metropolitanate; Tegucigalpa, raised to the metropolitanate.

V. TITLES ASSIGNED TO THE MOST EMINENT CARDINALS. Finally, the Most Blessed Father assigned the following titles: to the Most Reverend Frühwirth, the title of Saints Cosmos and Damian, for this time to a priest raised to the rank; to the Most Reverend Emo, the title of Saint Jerome of Illyria; to the Most Reverend La Fontaine, the title of Saints Nereus and Achilles; to the Most Reverend Scapinelli di Lèguigno and the Most Reverend Ranuzzi de Bianchi, the title of Saint Prisca; to the Most Reverend Sbarretti, the title of Saint Sylvester in Capite; to the Most Reverend Dubourg, the title of Saint Balbina; to the Most Reverend Dubois, the title of Saint Mary in Aquiro, for this time to a priest raised to the rank; to the Most Reverend Boggiani, the title of Saints Quiricus and Julitta; to the Most Reverend Ascalesi, the title of Saint Callistus; to the Most Reverend Maurin, the title of the Holy Trinity in Monte Pincio; to the Most Reverend Marini, the title of Saint Mary in Domnica; to the Most Reverend Giorgi, the title of Saint Mary in Cosmedin.

[*Latin ed. p. 478*]

Acts of the Apostolic See - Official Commentary 478. ACTS OF THE HOLY CONGREGATIONS. SACRED CONGREGATION OF THE CONSISTORY. CONSISTORIAL DECREE. BY DECREE OF THE HOLY FATHER, POPE BENEDICT XV, the following provision for the Church is made: December 1, 1916. — To the metropolitan church of Lyons, the Reverend Father Aloysius Joseph Maurin, hitherto Bishop of Grenoble, is appointed.

SACRED CONGREGATION FOR THE DISCIPLINE OF THE SACRAMENTS. REGARDING THE VALIDITY OF BAPTISM. The Reverend Ordinary of [Diocese] reported the following to this Sacred Congregation: "A certain case concerning the validity of marriage has been brought before the ecclesiastical tribunal of this Diocese, the validity of which depends on

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the validity of the baptism. The baptism was administered in this manner: A non-Catholic minister was present. He pronounced the words, 'I baptize you, according to the rite of the Church,' but he did not pour water, nor did he immerse the bride; but, after uttering these words, the bride herself descended into the piscina and, walking through the water, immersed herself."

[*Latin ed. p. 479*]

The Holy Congregation for the Discipline of the Sacraments requested that the Holy Congregation respond to the following question: Can it be considered valid to administer baptism in the aforementioned case?

I. No difficulty in this matter can arise from the side of the minister, as long as he is addicted to a sect that is not Catholic. For it is not a question of a licit, but only of a valid, administration of the sacrament.

II. It is understood that the non-Catholic minister recited the entire formula: "I baptize you in the name of the Father, and of the Son, and of the Holy Spirit." This is sufficiently evident from the report of the Ordinary himself, who states that the minister recited the words: "I baptize you according to the rite of the Church." Indeed, both the Latin and Greek rites prescribe that the essential formula of baptism, namely the aforementioned formula with the invocation of the three Persons of the Most Holy Trinity, which was handed down directly from Christ the Lord, be used; so that if the minister had only uttered the words: "I baptize you," the baptism would certainly be invalid.

III. The case, as described, demonstrates that after the recitation of the formula, the application of the material took place: after the words were spoken, the woman herself immersed herself. It is a common teaching that for the validity of baptism, a physical union of the material and the formula is not required, but a moral union is sufficient, which is present if the ablution is performed immediately before the formula is pronounced, or immediately after. This moral union appears to have existed in the case described, because it is indicated that there was an immediate succession between the recitation of the words and the woman's descent into the pool. Therefore, from this point, there is no apparent reason for the invalidity of the baptism.

IV. However, a stronger and more insurmountable difficulty against the validity of the baptism in the case arises from the application of the material, which was not at all performed by the minister. Catholic doctrine most certainly holds that the material and the formula of baptism must be presented by one and the same minister; otherwise, the formula: "I baptize you, I wash you," would be false.

St. Thomas (Summa Theologica, III part, q. 67, a. 6 ad 3) says: "It must be said that the integrity of baptism consists in the form of the words and in

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the use of the matter; and therefore, neither he who only pronounces the words baptizes, nor he who immerses. And therefore, if one pronounces the words and another immerses, no form of words can be suitable."

The Roman Ritual (title 2, chapter 1, n. 10), briefly summarizing the Catholic doctrine concerning the union to be made by one and the same subject, prescribes: "Let the same one use the water and pronounce the words." But in the case described, there is no indication that the minister performed anything externally to apply the material to the subject in any way; on the contrary.

[*Latin ed. p. 480*]

480 Acta Apostolicae Sedis - The official commentary expresses this. It is said: the minister himself did not pour the water, nor did he immerse the bride, but, with prescribed words, the bride herself descended into the pool, and through the flowing water, she immersed herself. Therefore, baptism should be considered invalid in this case. The Most Reverend Fathers of this Holy Congregation, after mature deliberation, in a plenary session held on November 17, 1916, regarding the proposed question: "Can baptism be considered valid in this case?", decided that the answer should be: "As presented, negatively."

ALOISIUS CAPOTOSTI, Bishop of Thermen, Secretary.

SACRED CONGREGATION FOR THE BISHOPS OF NARNI.

On December 12th, page 13, 1913.

Facts of the case:

"Once, in the town of Calvi, in the diocese of Narni, there were two parish churches: one collegiate, under the title of Saint Mary, and the other of Saint Valentine; however, the former far surpassed the latter, since, while it enjoyed a greater number of priests, it almost entirely managed the care of both the townspeople and the rural inhabitants; moreover, all the confraternities and other pious associations held their meetings there, contributing a considerable amount from their revenues to the expenses of divine worship. Outside the town walls, there was a convent of the Order of Minor Friars, with the church of Saint Francis attached, which adequately provided for the spiritual needs of the rural inhabitants. Therefore, the pastor of the church of Saint Valentine, in this situation, only cultivated a very small part of the town's territory with his pastoral care; indeed, this other parish of Saint Valentine seemed to be exercising the care of souls more in place of the parish of Saint Mary than in its own name; and, in truth, one of the canons of the collegiate church of Saint Mary was usually assigned to the exercise of this care. However, after the publication of the

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civil laws of suppression, the convent was dissolved."

[*Latin ed. p. 481*]

The Congregation of the Council, having convened the Brothers Minor in the year 1895, decreed that the parish of Saint Valentine should be transferred to the church of Saint Francis, and that, with newly defined boundaries for both parishes, all rural inhabitants should be assigned to the parish of Saint Valentine (which was thereafter to be called Saint Francis), while the entire territory within the walls of Oppido was assigned to the Collegiate parish of Saint Mary. Consequently, the number of the faithful under the care of the parish of Saint Valentine, located in the church of Saint Francis, increased from 200 to 800, with the addition of many who had previously been under the jurisdiction of the parish of Saint Mary. However, this transfer of the faithful from one parish to another gave rise, as is often the case, to certain inconveniences and difficulties, the most important and serious of which were brought before the judgment of the Congregation of the Council for appropriate definition and provision. Namely:

a) Firstly, the pastor of Saint Mary claimed that the church of Saint Mary had previously received considerable revenues from the offerings of the faithful during the blessing of animals on the feast of Saint Anthony of Padua, which was customarily held in the oratory of Saint Anthony, which was, and remained, within the territory of the Collegiate church of Saint Mary. Therefore, the pastor of Saint Mary forbade the pastor of Saint Francis from performing that blessing in his church of Saint Francis; while, conversely, the pastor of Saint Francis refused to allow his parishioners to go to the other parish to receive that blessing, and therefore to make offerings for it.

b) Secondly, as we have said, the confraternities and pious unions held their meetings exclusively in the church of Saint Mary, and their expenses contributed significantly to the divine worship. The pastor of Saint Francis argued, and the pastor of Saint Mary opposed, that at least some of these confraternities should be established in his church, or, at the very least, that they should contribute to the revenues of his church, so that the pious intention of the founders, who had intended to benefit all the inhabitants of the parish, whether in the town or in the countryside, should not be frustrated.

c) For the same reason, because the confraternities and pious unions continued to hold their meetings exclusively in the church of Saint Mary, it happened that those subject to the parish of Saint Francis, when they did not explicitly choose a burial place, were sometimes taken after their death by members of their confraternity to that very church of Saint Mary, where the pastor claimed to perform the funeral rites; which the pastor of Saint Francis considered to be highly unfair.

d) Finally, there was the question of a certain bequest, which had been

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bequeathed by its testator, Canon Andrea Ronconi, to the administration of the Collegiate church of Saint Mary, but with the condition that it be used in a certain oratory dedicated to Saint Juvenal. Since that oratory is now located within...

[*Latin ed. p. 482*]

482 Acta Apostolicae Sedis - Official Commentary. The pastor of the parish of Saint Francis contends that the legation pertains to him, since the parish of Saint Francis and the collegiate church have been civilly suppressed in Fismes. The Ordinary labored considerably to resolve these controversies; however, since each party asserted its claimed rights and rejected any proposed settlement, it was necessary to define these rights. To this end, the following distinct questions were posed:

I. To whom does the right belong to bless animals and to receive offerings in the case of Saint Anthony?

II. In the case of the confraternities of Santa Maria, do they contribute to Saint Francis, especially on the feast of Saint Anthony, and are they obligated to contribute for the expenses of the cult in favor of the church?

III. In the case where the members of these confraternities do not choose to do so, must they be buried in the parish?

IV. To whom do the confraternities belong, who expressly desire to be buried in the church of Santa Maria, or rather, in the administration of the pious legation of Ronconi?

Synopsis of the discussion. The arguments presented for each of the above points can be briefly summarized as follows:

I. Regarding the first question. In fact, it has been customary from time immemorial to perform the blessing of animals, of which we are speaking, solely in the Oratory of Saint Anthony, which is now located within the boundaries of the parish of Santa Maria, and to which faithful from the town and the surrounding countryside have come. It is then argued, with the favor of the pastor of Santa Maria, that the aforementioned Oratory of Saint Anthony has acquired, through a certain prescription, a true, exclusive privilege with respect to both parishes. This concerns a custom of fact, which, if not unreasonable and long maintained by the majority of the community, without any opposition from the ecclesiastical superior, "passes into a customary right... and is guarded, not without reason, by law" (D'Annibale, Summ. 1, 245 ss.). Therefore, the Oratory of Saint Anthony, and consequently, indirectly, the parish of Santa Maria, possesses a true privilege, since it is certain that a privilege can be acquired by prescription or by a legitimately prescribed custom; this is the law of the canons, as stated in cap. Novit., 13, de Iudic, and cap. Super quibusdam, 26, de V. S.

On the contrary, it is argued in the case at hand that there is no place for prescription, nor for the resulting privilege, and this in two ways: firstly,

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because it concerns faculties; indeed, it is certain that the blessing of animals on the feast of Saint Anthony is not reserved to anyone, but it is free for any priest, whether a parish priest or not, to administer it to those who request it. "There are certain functions," says the cited D'Annibale (Summ. I, 98, n. 63), "to which some jurisdiction is attached, and therefore they are called parochial."

[*Latin ed. p. 483*]

The Holy Congregation of the Council, 483, states: "However, those [powers] which consist solely of the authority of the Order, and are called 'sacramental,' are of this nature: such are the blessings of seeds, eggs, animals, and the like." And Ferraris adds: "It is not permissible for a parish priest to prohibit or impede other chaplains and rectors of other churches within the boundaries of the parish [fines] from giving blessings of animals on the feast day of Saint Anthony the Abbot, and from receiving offerings, because this blessing is not included among the functions of the parish priest" (see *Benedictio*, article V, number 22; where several decisions of the Holy Congregations and Sacred Congregations, and the Relators, are cited). If, therefore, a prescription is not given in the case of optional matters, much less can a privilege be granted by prescription in optional matters; therefore, no privilege could have been acquired regarding the blessing in question. Nor is it permissible to demonstrate a privilege based solely on the fact that the blessing of animals has been performed for a long time only within the territory of the parish of Saint Mary. Indeed, this was the case, because the territory in question at one time belonged to the parish of Saint Mary; but therefore, no one was subject to the law against whom the prescription could begin to run; therefore, the prescription could not begin in any way, according to the very law: "Prescription runs only against those who are subject to the law." To say otherwise would be to say that, whenever in some town, for one or more centuries, there is only one church, that church can acquire and claim the right or privilege of performing all ecclesiastical functions, even if another church is later established in the same town: which would certainly be considered absurd. In particular, regarding the blessing of animals in this case, the Holy Congregations and Relators have repeatedly held (in Bizzarri, *Collectio*, p. 292, 1, edition) that it cannot be prevented from being performed by religious members who establish a house with a church in a town where it used to be customary to perform it only in the single church: and the same must be established, all the more, with regard to a newly established parish in the town, completely independent of the original one.

II. Regarding the second doubt, which concerns all the contributions that the Confraternities make in favor of the church of Saint Mary, the matter is more straightforward. For, indeed, the burden of proof rests on the rector

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of the new parish of Saint Francis, who claims to have a share in these contributions. But he cannot bring forward any title, any legal basis for his claim: for none of the Confraternities have a seat in the church of Saint Francis, nor are any of them bound by general or special law to contribute anything to this church. Moreover, the capacity for the alleged contribution is lacking: indeed, the revenues of the aforementioned Confraternities are so meager that they cannot,

[*Latin ed. p. 484*]

484 Acta Apostolicae Sedis - The official commentary indicates that, after covering the necessary expenses for the worship in the church of Saint Mary, the income is insufficient, and indeed, for many years, the obligations of the endowed Masses have not been able to be fulfilled. The Bishop confirms this with his testimony: "It has been shown for the last twenty years that the total income of all the confraternities has averaged 350 Lira annually, and that the expenses have been the same; that in these expenses, there has never been included any expense for the endowments of Masses, and that all the endowments have remained unfulfilled due to the use of the income for other purposes." In favor of the parish priest of Saint Francis, only a certain argument is presented based on equity, namely, that it should be presumed that the pious founders of these confraternities intended the benefit of the entire city, and certainly did not intend to exclude the rural inhabitants, as would happen if all the income were to be allocated in favor of the church of Saint Mary, which today has no concern for the rural inhabitants. However, this argument seems too weak: for, as is stated, it should at least be presumed that the intention of the testators was that the pious obligations of the Masses should be fulfilled as much as possible, which is not the case. Furthermore, there are other remedies for the parish priest of the new church to ensure that the needs of divine worship are met.

III. Regarding the third point, namely, the right of burial, the current situation is that all members of the confraternities, even though they are subject to the newly established parish of Saint Francis, are to be brought to the church of Saint Mary after death, unless they choose another burial place. The parish priest of Saint Mary believes that nothing should be changed regarding this: first, because that church continues to be the seat of the confraternities; second, because the members of the confraternities have freely obligated themselves to have their funerals held in the seat of their confraternity, rather than in their own parish; in this case, the parish priest is only entitled to a quarter of the funeral expenses. In opposition, it is argued that it does not matter that the church continues to be the seat of the confraternities, because the reason why the church of Saint Mary exercised the right of burial even with regard to the members of the confraternities in the past was that that church then existed as the proper parish of each confrater; but this reason no longer exists, on the contrary, with regard to

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all, even the members of the confraternities, who are now under the jurisdiction of the parish priest of Saint Francis. Indeed, the newly established parish is subject to the general rule that applies to every parish, namely, that everyone should be buried in their own parish where they received the Sacraments, unless they explicitly choose another burial place.

[*Latin ed. p. 485*]

I. The Holy Congregation of Councils, 485. It is not sufficient for this purpose that the choice of burial be presumed, or interpretative, or collective, but it is entirely necessary that it be explicitly, individually, freely, and manifestly declared, as common doctrine teaches (cf. Albert, *De sepult*, schools, n. 24). In particular, with regard to members of Confraternities, it is advisable to record the authorities cited by Ferraris, *s. v. Confraternitas*, art. V, n. 1-8: "Members of the Confraternity who have passed away, and who have not explicitly chosen burial in the cemetery of their Oratory or Confraternity, must be buried in the parish church" (*S. Congr. Concilii in Neapolitan. 13 Februarii 1660 ad 7*). Indeed: "A choice of burial made collectively and collegially by members of the Confraternity is valid only for those who have individually consented, as is evident from the following declarations of the Holy Congregation of Councils of May 16, 1682, (followed by the declaration).... Where you see in those words that those who individually consent are clearly indicated, it is evident that members of the Confraternity, although they may choose burial collectively and collegially, are not included in those who have not expressly and individually consented" (*S. C. EE. et RR., in Camerinen., 18 August 1690*), etc.

II. Regarding the fourth doubt. The case concerns the administration of a legacy, the documents of which have not been lost, but are intact; and in these documents, the question raised is fully addressed: we read: "with the annual income, to be administered by the Chamberlain, for the time being, of the Chapter of Calvi; there must be celebrated three Masses there (that is, "in the church of St. Juvenal," which is now "in the territory of the parish of St. Francis"), etc. The remainder... will be held in deposit by the Chamberlain, administrator, to be used for other needs of this small Oratory." All of this is so clear and evident that it requires not interpretation, but merely execution. Although the Chapter is now, in a certain sense, suppressed civilly, it nevertheless still exists canonically, as they say, in spirit, and is represented at least by the parish priest of the collegiate church of St. Mary. There is no difficulty in the fact that the Oratory is now located in the territory of the new parish of St. Francis: this in no way prevents the fulfillment of the testator's will, as is evident; and we certainly hold in law that the parish priest, by virtue of his sole jurisdiction, does not have the power to administer the goods of pious foundations or institutions that are located within his territory. Cf. Benedict XIV, *Instit.*, 105, § 5, n. 99, where, based on the authority of the Decree *Urbis et Orbis S. R. C.* of

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December 10, 1703, it is written: "It is also granted to Oratories within the parish that they administer their goods and freely expend them, without the consultation of the parish priest, as is evident from questions 28, 30, 31 of the aforementioned Decree, and from the answers given."

[*Latin ed. p. 486*]

486 Acta Apostolicae Sedis - Official Commentary, Resolution. Having considered and deliberated these matters, when the aforementioned doubts were proposed at the plenary assemblies of the Eminent and Reverend Fathers of the Holy General Council, held on the 12th and 13th of December, 1913, the following responses were given to each: Regarding I: To the reformulated doubt: "Can it be prevented that the parish priest of Saint Francis bless animals on the feast day of Saint Anthony the Abbot, in this case?" The answer is: No. Regarding II: No; however, the Bishops must ensure that the obligations of the Masses are faithfully fulfilled, and to the extent that this cannot be achieved due to lack of resources, they should seek appropriate remedies and reductions. Regarding III: No, to the first part; affirmative, to the second part. Regarding IV: To the Chamberlain of the Chapter of the Collegiate Church of Saint Mary, and, given the present circumstances, to the parish priest of the same church, but under the supervision of the Bishop. These resolutions of the Eminent Fathers were approved by Us, according to the report of the undersigned Secretary, in audience on the 15th day of the same month and year. O. GIORGI, Secretary.

[*Latin ed. p. 487*]

In the Sacred Roman Rota, at Caltanissetta. Concerning the Nullity of Marriage (Territo-Baglio). Under the blessed reign of Pope Benedict XV, in the second year of his pontificate, on the 28th of July of the year 1911, the Most Reverend Fathers, Doctors Seraphinus Many, Ponens, John Prior, and Aloysius Sincero, Auditors in the cause of Caltanissetta, concerning the nullity of marriage, between Gratia Territo, the plaintiff, represented by her official advocate, the Reverend Henry Pezzani, and Cataldus Baglio, the defendant, in an appeal against the sentence of the Reverend Tribunal of Caltanissetta, issued by the Defender of the Bond of Caltanissetta, with the Defender of the Bond acting as substitute, delivered the following final judgment. On the 13th of December of the year 1896, Gratia Territo, who was fifteen years of age, and Cataldus Baglio, who was twenty-four years of age, entered into marriage in the parish church of the city of Saint Cataldo, in the diocese of Caltanissetta. However, it was rumored that Gratia had not entered into the marriage freely, but under the influence of her parents, especially her mother. Shortly after the marriage, disagreements arose between the spouses, and after approximately two years from the celebration of the marriage, a civil divorce was requested and pronounced.

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Finally, in order to consult her conscience, Gratia petitioned the Tribunal of Caltanissetta on the 15th of May of the year 1911, with a suppliant petition, requesting that her marriage with Cataldus Baglio be declared null, under the grounds of coercion and fear. And this was done, by virtue of the sentence of the 20th of March of the year 1913, by which the Tribunal of Caltanissetta declared the marriage to be null. Against this sentence, the Defender of the Bond of the Tribunal appealed, and in the Sacred Rota, a doubt arose, according to established procedure: Whether the marriage should be declared null in this case. With regard to the law, it is not uncommon in this Sacred Tribunal to debate the nullity of marriages based on the grounds of coercion and fear, and,

[*Latin ed. p. 488*]

488 Acta Apostolicae Sedis - Commentarium Officiale normam capitum Iuris Cum locum, 14; Veniens, 15; Consultationi, 28, De sponsalibus, constans firmaque iurisprudentia est, scilicet, saltem de iure ecclesiastico, metum esse impedimentum dirimens matrimonium , si sit gravis, etiam tantum relative, iniustus, ab extrinseco ortus, et in ordine ad extorquendum consensum matrimonialem incussus. Quae cum clara sint, ad factum properare licet. Factum quod spectat. Ut actrix in supplici libello refert, ipsa quemdam Rosarium Anzalone deperibat, amboque sibi fidem de futuro matrimonio dederant. Verum quia Rosarius pauper et inops erat, Gratiae mater huic matrimonio valde repugnabat , et absoluto iussu voluit ut filia cum Cataldo Baglio, consobrino suo, matrimonium contraheret. Exinde, inter matrem et filiam gravissima dissidia orta sunt per plures menses, cum obiurgationibus, reprehensionibus, iurgiis, minis, etiam mortis, verberibus, arcta custodia; quibus additae sunt graves vexationes ex parte fratris Gratiae, qui ad hoc amatre fuerat incitatus. Quae omnia, iniuste patrata, et in ordine ad consensum matrimonialem extorq uendum , tam gravia exhibentur, ut, si vera sint, de nullitate huius matrimonii non sit ambigendum . Inquirendum ergo est, utrum haec ex actis processus probata sint. Porro plures testes iurati, scilicet Antonina Iacona, Cataldus Chinnici, Catalda Lipira, Teresa Bruccheri, Iosephus Palermo, Salvator Sortino, Cataldus Carletta, tempore non suspecto, ab actrice, ab eius matre, vel a vicinis didicerunt tum continuam Gratiae contra Cataldum Baglio aversionem, tum minas, verbera, aliasque matris erga filiam vexationes, ut haec matrimonium cum Cataldo acceptaret: ex illis depositionibus, quae omnino inter se et cum actricis assertionibus concordant, valida praesumptio oritur de gravi et iniusto metu amatre Gratiae filiae incusso, ad extorquendum ab illa consensum matrimonialem. Sed haec praesumptio ad gradum certitudinis assurgit, si inspiciantur depositiones aliorum ad minus octo testium iuratorum, quaenuncexponendae sunt. Marianna Baglio, Gratiae mater, vidua Rosarii Territo, postquam in sua depositione narravit se omnia

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tentasse ut filiam a matrimonio cum Rosario Anzalone averteret, addidit : « In casa successe l'inferno: « mia figlia Grazia continuava la relazione con l'Anzalone, ma a forza « di pressioni e di minacce la indussi ad accettare il partito Baglio ». Haec matris depositio, etsi brevis ac generalis, non vi destituta est in casu, cum, ex una parte, sit manifesta confessio facta ab illa quaemetum intulit, et, ex altera parte, depositionibus ad minus septem aliorum testium confirmetur.

488 Acta Apostolicae Sedis - Official Commentary on the norms of Canon 14 of the Code of Canon Law; Veniens, 15; Consultationi, 28, Regarding betrothals, a constant and firm principle of jurisprudence is that fear can be an impediment that invalidates marriage, if it is grave, even if only relatively so, if it arises from external sources, and if it is introduced in order to extort marital consent. Now that these things are clear, we can proceed to the facts. As the plaintiff recounts in her written statement, she was involved with a certain Rosario Anzalone, and both had given each other their word regarding a future marriage. However, because Rosario was poor and without means, Gratia's mother was strongly opposed to this marriage, and with absolute authority, she wanted her daughter to marry Cataldo Baglio, her nephew. Consequently, very serious disagreements arose between the mother and daughter for several months, with accusations, reprimands, arguments, threats, even of death, beatings, and strict confinement; to which were added serious vexations on the part of Gratia's brother, who had been incited to oppose this relationship. All of these things, unjustly inflicted, and in order to extort marital consent, are so grave that, if they are true, there is no room for doubt about the nullity of this marriage. Therefore, it must be investigated whether these things have been proven by the records of the process. Furthermore, several sworn witnesses, namely Antonina Iacona, Cataldus Chinnici, Catalda Lipira, Teresa Bruccheri, Iosephus Palermo, Salvator Sortino, Cataldus Carletta, at a time when they were not suspected, reported to the plaintiff, to her mother, or to neighbors, both the continuous aversion of Gratia towards Cataldo Baglio, and the threats, beatings, and other vexations that the mother inflicted upon her daughter, so that she would accept marriage with Cataldo: from these depositions, which are entirely consistent with each other and with the plaintiff's assertions, a strong presumption arises that a grave and unjust fear was instilled in Gratia's daughter, in order to extort marital consent from her. But this presumption rises to the level of certainty if the depositions of at least eight other sworn witnesses are examined, which must be presented. Marianna Baglio, Gratia's mother, widow of Rosario Territo, after having recounted in her deposition that she had done everything to prevent her daughter from marrying Rosario Anzalone, added: "In the house, hell reigned: 'My daughter Gratia continued the relationship with Anzalone, but through force, ' through pressure and threats, I made her accept

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Baglio.'" This mother's deposition, although brief and general, is not without force in this case, because, on the one hand, it is a clear confession made by her that she instilled fear, and, on the other hand, it is confirmed by the depositions of at least seven other witnesses.

[*Latin ed. p. 489*]

Saint Bonana Bota 489, Mary Barbera, testifies of her own knowledge that she was beaten by her mother and brother, in order that she might consent to marriage with Cataldo, and yet she constantly refused this marriage: "Mother (Gratia's mother)," she said, "if Gratia does not marry Cataldo Baglio, I will kill her." One day, in my presence, both the mother and her son "beat her in an inhumane manner, in order to force her to marry the aforementioned Baglio. Gratia wept bitterly, but said, 'I do not want to.'" Three other witnesses also testify of such beatings; namely, Rosa Salerno, who saw the mother striking her daughter with a stick, in order that she might accept Cataldo as her husband: "In my presence, the mother undressed Territo Gratia and beat her, also threatening her with a revolver to induce her to marry Baglio." Michael Prizzi, who recounts as follows: "One day I went to the house of Territo, and I found Gratia half-dressed and weeping. When I asked her the reason, she said that both her mother and her brother had beaten her in order to force her to marry Baglio, also threatening to send her out of the house naked." Carmela Armanno says: "I told this (namely, Gratia's opposition to Cataldo Baglio) to the mother in order to dissuade her from using pressure on her daughter; but instead, she came to seize me while the son was beating the sister, Gratia." As for threats of death, directly from the mother with firearms, the witness was Carmela La Rocca: "The mother of Territo, in my presence, was trying to persuade her daughter, Gratia, to marry Cataldo Baglio. Gratia replied that she did not want to at all, but rather she wanted a certain Rosario Anzalone from Palmanova. It was then that the mother of Territo took up the rifle and pointed it at her to kill her. It was thanks to our cries that a murder was avoided." Similar things are recounted by Carmela Armanno: "I still remember that one time the mother took the rifle, and I held her back." Salvator Cammarata has two similar accounts: "Another time, in my presence, the mother of Territo said to her daughter: 'If you do not marry Baglio, I will kill you with a rifle.' It was said in the neighborhood that one day she threatened Gratia with a rifle. It was also said that she gave her beatings in order to induce her to marry Baglio." Raymund Naro also narrates that he heard the mother threatening her daughter with disinheritance: "I later learned that Gratia had married Baglio because of the threats and mistreatment she suffered at the hands of her mother and brother, who even put a revolver in front of her. The mother threatened her daughter in my presence with disinheritance." Rosa Salerno, with whose mother Gratia was placed in custody for three months, recounts continuous reprimands,

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vexations, and cruelties.

[*Latin ed. p. 490*]

490 Acta Apostolicae Sedis - Commentaria Officialia. The Mother, driven by maternal affection, oppressed her daughter in order to extort her consent to marriage with Cataldo: "Grace lived for three months 'in the house of her mother,' after she had already been promised to Baglio, and 'the young woman absolutely refused, despite threats, blows, and armed violence, always remaining steadfast in her refusal. When the mother of Grace came to the house of my mother, Maria Baglio, she created scenes, scratching and pulling at her hair, in order to persuade her daughter to retract from the promise made to Anzalone. Unable to achieve her purpose, she mistreated and beat her daughter, who persisted and said that, after being married, she would leave Baglio and go with Anzalone.' And in this resistance against the purpose, or rather, the imposition, placed upon her, Grace persevered until the very marriage, and always protested against these nuptials with words, tears, and in every way she could. She attempted to flee with Rosario Anzalone, as she herself recounts in the aforementioned document; but the father, using force, restrained the fleeing couple. Grace turned to her friend Carmela Armanno, seeking advice and help; but this proved futile, as Armanno intervened with the mother. Similarly, she asked her friend Salvatore Cammarata to tell Cataldo Baglio that Grace did not want him as her husband; which Cammarata recounts as follows: 'Once, Grace Territo said to me: "Do me a favor and tell Cataldo Baglio that I do not want him as my husband." I told Baglio what Grace Territo had told me; but he replied to me: "For now, she must be my wife, and let what will happen, happen in the future." Indeed, according to the testimony of Benedicta Mistretta, Grace dared to say to her betrothed that she did not want him as her husband: 'Even in front of Baglio, Grace said that she did not want him.' However, all these protests, and all the expressions of resistance, ceased to be effective, given the mother's persistence. Therefore, finding herself in such distress, and having no further recourse, Grace expressed her consent to the marriage, but under the influence of that fear, and that moral and physical coercion, by which she had felt oppressed for many months. This, equally, was clearly and manifestly demonstrated by the events that followed, shortly after the marriage. Grace recounts that, while still in the church, after the marriage had been celebrated, she rejected the hand offered to her by her husband: 'After the marriage ceremony... in the same church, I rejected the arm offered to me by my husband, and I wanted to return home, far from him.' On the days following the marriage, she told her friend Antonina Lacona that these nuptials had been imposed

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upon her by force; which Antonina herself recounts."

[*Latin ed. p. 491*]

On the 491st day, the following events occurred, as recounted by Gratia in her petition: "The disagreements began almost from the first days, with him constantly reminding me that the Anzalone was always around, in front of the house, on the street, in church, everywhere. And it was true; the signs and the exchanges of words with the Anzalone resumed a few weeks after the marriage, and they were the cause of continuous quarrels and heartbreak between me and the Baglio." Eighteen months later, the spouses separated, and shortly thereafter, a civil divorce was pronounced. Given these circumstances, there can be no doubt that Gratia, who was fifteen years old, entered into marriage with Cataldo out of great fear, unjustly pressured, and coerced by her brother in order to bring about this marriage; therefore, that marriage is null. However, certain difficulties remain to be resolved: 1. Gratia's mother instilled fear in her daughter, not directly to make her marry Cataldo, but to prevent her from marrying Rosario Anzalone. Thus, the Defender of the Bond of Caltanissetta, and the Substitute Defender of the Bond, H. S. O., argue; they attempt to prove this based on certain statements made by the plaintiff, her mother, or other witnesses; thus, Gratia states in her petition: "Continuing my relationship with the Anzalone, my mother... became so angry that she showered me with insults and threats, and finally, she grabbed a shotgun to scare me. To prevent me from seeing the Anzalone, they locked me in my aunt Maria Baglio's house, where no one could see me, nor could I speak." The mother, however, states: "When I learned of this (that is, of my daughter's love for Rosario Anzalone), I used every means to dissuade my daughter; I mistreated her, I beat her, and I allowed her brother to mistreat and threaten her. Seeing that everything was useless, I left her in the city with my sister Maria, who is now deceased." Furthermore, Benedicta Mistretta states: "In my presence, the mother often mistreated the daughter in order to make her forget the Anzalone." Response: This difficulty is easily resolved if it is understood that the truth must be ascertained, not from certain parts of the testimonies, but from the complete accounts of the witnesses. Furthermore, from the testimonies cited above, it is clear that the mother intended not only to prevent her daughter from having a relationship with Rosario Anzalone, but also, and indeed directly, to force her to enter into marriage with Cataldo Baglio. It is sufficient to recall the testimonies of those seven or eight witnesses who unanimously, from their own knowledge, state that they saw or heard the mother threatening her daughter with serious consequences in order to force her to marry Cataldo Baglio. The words previously described by

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Marianna Baglio (the mother) should be remembered.

[*Latin ed. p. 492*]

492 Acta Apostolicae Sedis - Official Commentary on Matrimony), Mary Barbera, Rose Salerno, Michael Prizzi, Carmel Armanno, Carmel La Rocca, Raymond Naro. The aforementioned man, Cataldus Baglio, stated: "Due to the insistent invitations of the mother, I returned to frequent the 'Baglio' house, which had an interest in keeping me away and preventing the planned marriage, precisely because she had trustingly lent me five hundred lire, and I threatened to leave my homeland and emigrate to Africa." From these words, it is evident that Gratia's mother, in her manner of acting towards her daughter, directly intended the marriage with Cataldus, and this also for economic reasons. 2. The man, Cataldus Baglio, testified: "To ascertain the will of Territo, I proposed to her, in the presence of the mother and relatives, that she make an oath before the Image of the Infant Jesus, and she replied that she would make a hundred... Before the marriage was celebrated, I sometimes found Territo at home, indifferent and melancholic; but she never revealed the reason for this state of mind. Subsequently, everything proceeded in order until the celebration of the marriage. The first months of the marriage passed with a certain tranquility." From these statements, it can be concluded that Gratia, although with some reluctance, freely consented to Cataldus.

Response: 1) Gratia did indeed respond that she was prepared to swear of her willing consent to Cataldus; but she responded in this way before her mother, due to fear; therefore, these words prove nothing. This allegation is excellently confirmed by the testimony of Benedicta Riggi: "My husband, to ascertain the will of Territo, questioned her, in the presence of the family and of Baglio himself, whether she wished Baglio as her husband, and Territo, with a whisper, replied: 'If I had not wanted him, I would not have allowed him to come'; but from the tone of her voice and her demeanor, it was clearly seen that these were words spoken with her mouth, and not with her heart, so that my husband advised Baglio himself, who was very displeased." 2) That which Cataldus states, that Gratia never manifested her own repugnance to him, is contrary to what we have heard above from the mouths of Benedicta Mistretta and Salvator Cammarata. Furthermore, this sadness and "apathy" of the bride, of which Cataldus speaks, rather confirm the statements of the witnesses regarding the fear that was instilled in her. 3) Cataldus affirms that everything proceeded correctly up to the marriage; but this affirmation of the bride, unique among so many other testimonies, and so general, cannot outweigh the others. It should be noted here (as has already been observed in other cases before the Sacred Roman Rota, e.g., in the case of Nicien - Nullity of Marriage, dated February 19, 1916), that it is surprising that the relatives of the bride, and a fortiori the

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bride herself,

[*Latin ed. p. 493*]

A. In the case of Bomana Bota 493, it is to be noted that the fear instilled in the bride is ignored, because parents who instill fear in their daughter regarding marriage often act secretly, lest the bridegroom's family, having knowledge of the instilled fear and therefore the bride's opposition, withdraw from the marriage negotiations. Gataldus affirms that the first months of marriage passed in a certain tranquility: "with a certain tranquility." But this is not true, or at least it is exaggerated, as is shown by what subsequently occurred, namely, the separation of the spouses after 18 months. Furthermore, although it is true that the first months of marriage passed in a certain peace, it does not follow that Grace purged the fear, either because the purging of fear is not understood unless the cause of the fear ceases, namely, Grace's mother; or because in places where the decree of Tametsi has been promulgated, the legally proven fear is not understood as purged unless there is a renewed consent in the manner prescribed by the Council of Trent. This was never the case here. Therefore, having considered and carefully examined all of these matters, both in law and in fact, and invoking the name of Christ, We, the undersigned Auditors, sitting in judgment for the Tribunal, and with God alone before our eyes, do hereby decide, declare, and definitively pronounce: That the marriage between Grace Territo and Cataldus Baglio is null, and therefore, confirming the judgment of the court of first instance, we answer the question posed affirmatively. Thus we pronounce and definitively decide, ordering the Ordinaries of the places and the officials of the tribunals to which this pertains, to enforce this judgment, and against those who resist, to proceed according to the norms of the sacred canons, and especially chapter 3, session 25, of the Council of Trent, employing the executive and coercive means that are most effective and appropriate for the circumstances. Rome, in the seat of the Tribunal of the Roman Rota, on the 28th of July, 1916. Seraphinus Many, President. Ioannes Prior. Aloysius Sincero. L.©S. From the Chancery, on the 7th of August, 1916. Sac. I. Ladelci, Notary.

[*Latin ed. p. 494*]

494 Acta Apostolicae Sedis - Official Commentary. ACTS OF THE SECRETARY OFFICES. LETTER TO REVEREND FATHER ALOISIUS CATERINI, S.J., DIRECTOR OF THE PONTIFICIAL GREGORIAN UNIVERSITY, GRANTING THE ANNUAL ALLOTMENT FOR THREE GOLD MEDALS, GRACIOUSLY DESIGNED FOR MANY YEARS TO REWARD THE MOST EXCELLENT STUDENTS.

Reverend Father, as I had the pleasure of announcing to you in past years, His Holiness, Benedict XV, willingly followed in the footsteps and continued the benevolent attention that the late Pope Pius X, of holy memory,

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rightly wished to bestow upon the meritorious Pontifical Gregorian University. While the glorious traditions of the Roman College, which have never ceased to be cultivated with success until this day, attracted the consideration of the lamented Pope Pius X, particular reasons of personal connection move the reigning Pope Benedict XV to offer to this distinguished Institute, where He himself pursued the study of ecclesiastical science, a more ample and lasting testimony of Sovereign benevolence.

Therefore, the August Pope, not only for the noble intention of ensuring a reward for the most deserving students, a reward that serves as praise and encouragement, but also to foster that sentiment of affectionate remembrance that binds Him to the University, to which He gladly acknowledges being indebted for all that He possesses in terms of knowledge in the sacred disciplines, has graciously deigned to establish the permanence of the gift of the three gold medals that were previously awarded annually, for the benefit of the most distinguished students of the legal, theological, and philosophical faculties of the same University.

In giving you this joyful announcement, I have the pleasure of enclosing with this dispatch the three medals pertaining to the upcoming awards; and I gladly seize this opportunity to reaffirm my sentiments of distinguished esteem towards you.

From the Vatican, November 11, 1916.

Sincerely in the Lord,

P. CARD. GASPARRI.

[*Latin ed. p. 495*]

DIARY OF THE ROMAN CURIA

SECRETARY OF STATE

SACRED CONGREGATIONS ASSIGNED TO THE NEW CARDINALS

By means of notes from the Secretary of State, the Holy Father has deigned to assign the following Sacred Congregations to the new and Most Reverend Lords Cardinals, who, at the public Consistory of December 7, 1916, received the cardinal's hat:

To the Most Reverend Cardinal Frühwirth, the Sacred Congregations: of the Sacraments, of Religious Orders, of Extraordinary Ecclesiastical Affairs, and of the Index.

To the Most Reverend Cardinal Scapinelli, the Sacred Congregations: of

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the Council, of the Sacred Rites, of Extraordinary Ecclesiastical Affairs, and of the Ceremonial.

To the Most Reverend Cardinal La Fontaine, Patriarch of Venice, the Sacred Congregations: Consistorial, of the Sacraments, of the Sacred Rites, and of the Index.

To the Most Reverend Cardinal Ranuzzi de Bianchi, the Sacred Congregations: of the Council, of Religious Orders, of the Sacred Rites, and of the Reverend Fabric of St. Peter's.

To the Most Reverend Cardinal Sbarretti, the Sacred Congregations: of the Sacraments, of the Council, of Religious Orders, and of the Reverend Fabric of St. Peter's.

To the Most Reverend Cardinal Dubourg, Archbishop of Rennes, the Sacred Congregations: of the Sacraments, of the Council, of the Sacred Rites, and of the Reverend Fabric of St. Peter's.

To the Most Reverend Cardinal Dubois, Archbishop of Rouen, the Sacred Congregations: Consistorial, of the Council, of the Index, and of the Ceremonial.

To the Most Reverend Cardinal Boggiani, the Sacred Congregations: Consistorial, of the Sacraments, of Seminaries, and of the Index.

To the Most Reverend Cardinal Ascalesi, Archbishop of Benevento, the Sacred Congregations: of the Council, of Seminaries, of the Index, and of the Ceremonial.

To the Most Reverend Cardinal Maurin, Archbishop of Lyons, the Sacred Congregations: of the Council, of Propaganda, of the Sacred Rites, and of the Ceremonial.

To the Most Reverend Cardinal Marini, the Sacred Congregations: of Propaganda, of Propaganda for Oriental Rites, of the Sacred Rites, and of the Reverend Fabric of St. Peter's.

To the Most Reverend Cardinal Giorgi, the Sacred Congregations: of the Sacraments, of the Council, of Religious Orders, and of the Index.

[*Latin ed. p. 496*]

496 Acta Apostolicae Sedis - Official Commentary. By order of the Secretariat of State, the Holy Father has deigned to appoint:

•— December 4, 1916. — The Most Reverend Cardinal Filippo Giustini, Member of the Supreme and Sacred Congregation of the Holy Office. — Monsignor Giuseppe Aversa, titular Archbishop of Sardi, Apostolic Nuncio in Brazil, Apostolic Nuncio in Bavaria. — Monsignor Angelo Scapardini, titular Archbishop of Damascus, Apostolic Internuncio in Peru and Bolivia, Apostolic Nuncio in Brazil.

December 6. — Monsignor Augusto Silj, titular Archbishop of Caesarea of Pontus, Vice-Chamberlain of the Holy Roman Church. — Monsignor

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Giovanni Battista Nasalli-Rocca, Bishop of Gubbio, Secret Almoner of His Holiness.

December 8. — Monsignor Giovanni Tacci, titular Archbishop of Nicaea, Chamberlain of His Holiness. — Monsignor Carlo Perosi, Assessor of the Sacred Congregation of the Holy Office. — Monsignor Vincenzo Sardi, titular Archbishop of Caesarea of Palestine, Assessor of the Sacred Congregation of Cardinals. — Monsignor Giuseppe Mori, Secretary of the Sacred Congregation of the Council. — Monsignor Evaristo Lucidi, Secretary of the Apostolic Signature. — Monsignor Giulio Grazioli, Auditor of the Holy Roman Rota. — Monsignor Bernardo Colombo, Regent of the Apostolic Penitentiary. — Monsignor Cesare Cerretti, Pro-Secretary of the economy of the Sacred Congregation for the Propagation of the Faith. — Monsignor Giuseppe Bruno, Under-Secretary of the Sacred Congregation of the Council.

NECROLOGY

December 5, 1916. — Monsignor Giovanni Battista Scotti, Bishop of Osimo and Cingoli.

[*Latin ed. p. 497*]

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* *Sanctae Mariae ad Rupes.* Concerning the shrines of *Sanctae Mariae ad Rupes* and *Sancti Bernardini Senensis* which is located in *Aquilae*, placing them immediately under the jurisdiction of the Minister General of the Order of Friars Minor.

* *Plumbo.* Concerning the erection of the Province of Regina, the division of the diocese of *sancti Bonifacii*, and the erection of the archdiocese of *Winnipegensis*.

* *Apostolatus officium.* Concerning the erection of the new diocese of *Portus Nationalis*, Cantoria, Celtic.

* *De erectione ecclesiasticae provinciae Gardiffensis Catholicae Ecclesiae cura.* Concerning the erection of the ecclesiastical province of Cardiff.

II. September.

- APOSTOLIC LETTERS.

* *Cum Catholicae Ecclesiae.* Granting indulgences to those who join

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the Eastern Christian peoples with the Roman Church.

* *Cum divinus Redemptor.* A certain prayer granted to Saint Peter, the Prince of the Apostles, with indulgences.

* *Romanorum Pontificum.* Concerning the elevation of the church of *Sanctae Mariae*, commonly known as "di Pozzano," near Stabia or Castrum Maris, to the title of Basilica.

* *Quod, in tanta.* That one of the canonical prebends of the churches of *Ss. Celsi et Iuliani* be reserved to the clergy of the ancient Florentine State for the church of *San Ioannis Florentinorum* in the City.

[*Latin ed. p. 500*]

Index of Documents, page 500. Year 1, Month [Day]: August 15, September 21, October. With the Sacred Bible. – New laws concerning the Pontifical Biblical Institute are decreed, establishing the relationships that must exist between the aforementioned Institute and the Pontifical Council for the Promotion of the Vulgate, as well as with the Supreme Pontifical Council for the Promotion of Biblical Studies. . . . We are deeply pleased. – Establishment of the new Apostolic Vicariate of Ho-nan Orientalis. . . . . With one hundred. – A sum is decreed for the cohort of soldiers, commonly called "Pontifical Gendarmes," at the end of the hundredth year since their institution. IV. 1916: June 26, October 12, December 1916: January 31, February, March. – 385 386 DECREE. Concerning the Eucharistic Communion for children of both sexes, to be promoted with solemn rites on July 30, in accordance with the wishes of the Supreme Pontiff. V. 1915 – 305 217 LETTERS. On the Fiftieth Anniversary of Your Priesthood. – To the Reverend Father Edmund Prendergast, Archbishop of Philadelphia, congratulating him on the fiftieth anniversary of his priesthood, and praising his merits. 140 It is truly pleasing. – To the Reverend Father Augustine Dontenwill, Archbishop of Acre, General Prefect of the Oblates of the Most Holy Virgin Immaculate, on the first centenary of the founding of their religious Congregation. 433 Towards the Summit of Christian Apostleship. – To Charles Hamel and Henry Saint-Olive, presidents of the groups managing the work of "The Propagation of the Faith," one in Paris, the other in Lyons, to offer congratulations and encouragement. 5 Charity Never Fails. – To the most illustrious Aloysius, Count d'Hendecourt, President of the Vincentian Congregation, expressing gratitude for letters describing the condition of the Society in Espera. 33 Concerning African Affairs. – To Paul Peter, Cardinal Andrieu, Archbishop of Bordeaux, regarding a contribution for the correction of Negroes on the Feast of the Epiphany of the Lord. 1 57 In this regard. – To the Reverend Father Joseph Bardoux, of the Society of Jesus, director of the "Lancaster Apostolic School," on the occasion of the fiftieth anniversary of the opening of a school of this kind for the first time in Avignon. 141 Amidst this terrible conflict. – To His Eminence, Cardinal Pompilj, Prefect of the Vicariate of Rome. To encourage special prayers, in which the end of

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this immense war is implored, to all the Catholic populations of the warring nations, and to all Catholic women and families, whether individually or more appropriately united.

[*Latin ed. p. 501*]

In chronological order: YEAR I, 1916, MONTH, DAY: March 10, April 13, April 19, May 30, June 18, June 29. He writes, especially during this opportune and acceptable Lenten season: "V.V." – To the religious man, Gyrum of Pisasura, O.F.M., expressing gratitude for the offered, in obedience, ephemeris which is inscribed "Picenum Seraphicum." – To the Reverend Father, Dom Camillus Moreschini, Archbishop of Camerino, concerning the promotion of Christian doctrine throughout Picenum, in his letter. – To the Reverend Father, Barnabas Piedrabuena, Bishop of Catamarca, offering congratulations for the solemnities which are celebrated in honor of the Blessed Virgin "of the Valley." – To the Reverend Father, Anthony Lhoumeau, General Prefect of the Society of Mary and the Daughters of Wisdom, on the occasion of the two-hundredth anniversary of the death of the blessed lawgiver, concerning the "Institutions of Moral Theology." – To the Reverend Father, Ianuarius Bucceroni, of the Society of Jesus, a doctoral lecturer in moral theology at the Gregorian University; to whom he commends his recently published books, deeming them holy and salutary. – To the Reverend Father, Edward Hugon, a Dominican confrere, a doctoral lecturer in sacred theology at the Urban College of the Angels; praising him for having disseminated the doctrine of sacred theology according to the mind of Aquinas, even among the laity. – To the Reverend Father, Paul Buguet, a member of the Congregation of Monte Cassino, an apostolic protonotary, to whom he offers congratulations on the fiftieth anniversary of his priesthood and the growth of the work for the expiation of the souls of the dead. Letter from Milan. – To Andrea Cardinal Ferrari, Archbishop of Milan, and to the other prelates of the ecclesiastical province of Milan, gathered for their annual meeting. – To the Reverend Father, Ianuarius Asprenata Galante, apostolic protonotary, canon, and custodian of the relics of the Neapolitan Church; to whom he offers congratulations on the celebration of the fiftieth anniversary of his priesthood, with all due apostolic honor. – To the Reverend Father, Amadeus Guizzoni, a theological canon of Piacenza, concerning the commentary entitled "The Catholic Catechist." – To the Reverend Father, Charles Garcia Irigoyen, Bishop of Trujillo, on the occasion of the fourth century since the founding of the Trujillo diocese. – To the Reverend Father, Seraphinus Cimino, General Minister of the Order of the Friars Minor, on the seventh centenary since the plenary indulgence of the Porziuncula was first divinely granted.

[*Latin ed. p. 502*]

Index of Documents, 503, Year 1916. July 1st, August 21st, September

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10th, October 14th.

To a beloved Son. – Writing to the Reverend Aloysius Jauch, we commend the pious work of Saint Francis de Sales. With piety towards you.

We have received a letter addressed to the Reverend Julian, Archbishop of Port-au-Prince, and to the other bishops of the ecclesiastical province of Haiti, who were gathered in a meeting.

To Julius, Reverend Father, Cardinal of the Holy Roman Church, Boschi, Archbishop of Ferrara, Bishop of Comacchio, George, Reverend Father, Cardinal Güsmini, Archbishop of Bologna, and to the archbishops and bishops of the region of Flaminia, gathered in their annual meeting: Our devoted greetings.

To Count Massimiliano Zara, President General of the Society of Saint Paul for the dissemination of Catholic printing: We have received [your communication].

To the Reverend Bernard, Archbishop of Bogota, and to the other archbishops and bishops of Colombia, who are celebrating a meeting: From your venerable brother Titus.

To the Reverend Felix Ambrose, Archbishop of Saint James of Cuba, and to the other bishops of the Republic of Cuba, concerning the fostering of devotion to the most holy Mother of God: We rejoice in both [matters].

To the Reverend Louis Theissling, recently elected General Superior of the Dominican Order, so that he may receive our congratulations and expressions of good wishes: We, having read [your communication].

To Felix, Reverend Father, Cardinal of the Holy Roman Church, de Hartmann, Archbishop of Cologne, and to the other archbishops and bishops of Germany who recently met in Fulda: Divinely entrusted to us.

To Louis Nazarius, Reverend Father, Cardinal Bégin, Archbishop of Quebec, and to the other archbishops and bishops of the Canadian region: We earnestly commend mutual union among the faithful. Your singular [contribution].

To Francis, Reverend Father, Cardinal De Bettinger, Archbishop of Munich and Freising: We respond to the letters sent by him for observance, on the occasion of the return of his pontificate.

To Peter, Reverend Father, Cardinal Maffi, Archbishop of Pisa, and to Alphonsus Mary, Reverend Father, Cardinal Mistrangelo, Archbishop of Florence, and to the other archbishops and bishops of Etruria, gathered in Pisa for their annual meeting: In the company of colleagues.

To the Reverend Louis Theissling, General Master of the Dominican Order: We offer our [greetings].

[*Latin ed. p. 503*]

503. In chronological order, the year 1916, the month of October [PAGE

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I, day 30 of November]. Thirteen solemn sessions concerning the Order, lawfully confirmed years ago.

Common letter. – The Most Reverend Fathers, the Most Reverend Lords, Natal Bruni, Archbishop of Modena, Abbot of Nonantola, and other prelates of Emilia, to the annual gathering, expressing gratitude for their most attentive letters. These words: – To the Most Reverend Fathers, the Most Reverend Lords, Ludovic Gavotti, Archbishop of Genoa, and other bishops of Liguria, expressing gratitude for their common and most devoted letter, at the annual gathering.

In the book. – To George, priest of the Most Holy Roman Church, Cardinal Gusmini, Archbishop of Bologna, expressing gratitude for the book reverently offered as a testimony of veneration.

VI. 1916, December. – Whereas. – Having been held in the Consistory.

VII. 1916, March. – ACTA I. 1915, December 16; 1916, February 19; April 8; 13; May 11. – SERMON. To the Bishop. – Concerning those who proclaim the divine word during Lent in the City.

II. June. – ALLOCUTION. SACRED CONGREGATIONS. CONGREGATION OF THE HOLY OFFICE. Decree. Certain concessions granted for the time of war are declared and extended. Declaration concerning the faculty of bishops in reconciling heretics or apostates. Decree concerning images depicting the Blessed Virgin Mary clothed in priestly vestments. Decree. A doubt concerning the indulgence of the Christian salutation: "Laudetur Jesus Christus" is declared. Declaration concerning a certain work...

Decree. A doubt is resolved concerning Holy Medals for the blessing of scapulars.

Decree concerning a certain periodic review...

Decree by which more doubts are resolved concerning Indulgences obtained by secular tertiaries of the Order of Friars Minor.

Decree concerning the formulas of prayers not to be altered in Indulgences.

[*Latin ed. p. 504*]

504 Index documentorum ANNO MENSE' DIE 1916 » •July 12 13 5 11 » August. October. » PAGE 316 Instruction regarding cases of conscience with reservations. Decree. Societies dedicated to promoting and assisting religious vocations are granted indulgences. . . II. - SACRED CONGREGATION 313 316 399 CONSISTORIAL. 1916 » February. March 15 31 » » » Declaration concerning the use of clerical vestments in the region of Andria. » June 9. » 16 63 Decree concerning certain dances in the United States of America and in the region of Cana. 147 148 » • Concerning the cathedral title for the church of Saint Sabinus. 266 » Letter to the Ordinaries of Italy concerning priests serving in the military. » July 25 » October. November 4 24 » Decree concerning those to be presented for the episcopal ministry in

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the United States. . . MAGELLANENSIS. Erection of an Apostolic Vicariate. . . Circular letter to the Reverend Archbishops and Bishops of Calabria concerning the establishment of ecclesiastical benefices. 400 406 437 III. 1916 » » » January. » 28 31 February. April. November 25 3 17 - SACRED CONGREGATION. December 1915 » June. July. June 1916 » » » » November. DISCIPLINE 64 36 151 153 478 - SACRED CONGREGATION 15 » DIOCESE N. Distribution. 19 31 ORITANA. Participation. 18 19 14 SACRAMENTS. Lawfulness of marriage. IV. 1913 » FROM THE COUNCIL. 439 480 37 9 318 271 Decree concerning the provision of offices and benefices. 445 V. 1916 November 7 - SACRED CONGREGATION FOR RELIGIOUS. Doubts concerning a postulant leaving a monastery. 446

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505. In chronological order, during the months of June. - The HOLY CONGREGATION FOR THE PROPAGATION OF THE FAITH, concerning matters of the Oriental Rite, March 22, 27: Doubts concerning the Constitution "Incruentum" with regard to the Orientals. Decree concerning the spiritual assistance of the faithful of the Greek-Ruthenian Rite in the regions of South America, immigrants, June 7. - The HOLY CONGREGATION OF THE INDEX. Decree by which certain works are prohibited... August 8. - The HOLY CONGREGATION OF RITES. December 22: Decree concerning the introduction of the cause of the Servant of God, John Baptist Stoeger, a lay member of the Congregation of the Most Holy Redeemer, in ROMANA, or NEAPOLITANA. - Decree of beatification and canonization of the venerable Servant of God, John Baptist of Burgundy, a priest of the Order of Friars Minor, in PARISIEN. - Decree of beatification or declaration of martyrdom of the Servants of God, John Mary du Lau, Archbishop of Arelate; Francis Joseph de la Rochefoucauld, Bishop of Bellovac; Peter Lewis de la Rochefoucauld, Bishop of Santon; and their companions, in Paris, in the month of September, 1792, who were killed. February 11: Doubts, 23. Decree concerning the lamp before the Most Holy Sacrament. Decree concerning the number of priests and sacred ministers in the blessing and consecration of the holy oils... April 12, in TURIN. Decree of beatification and canonization of the Servant of God, Aloisia Borgiotti, cofoundress of the Sisters of Jesus the Nazarene, in SANCTI HYPOLYT!. May 1: For the DIOCESES of all of ITALY and the adjacent islands. Concerning the feast of the translation of the most holy House of the BLESSED VIRGIN MARY... June 26, in BAVARIA. Concerning the title, feast, and office of the BLESSED VIRGIN MARY, patroness of Bavaria... June 15, in ISEDUNEN. Doubts concerning the feast of the dedication of the church... June 6, in VIZAGAPATAMEN and ETNAPOREN. Doubts, June 12. Doubts concerning the votive Mass for the Most Sacred Heart of Jesus and concerning the prayers after Mass... June 4, in JAVENIONEN. Decree of beatification or declaration of martyrdom of the Servants of God, the sisters Iphigenia and

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Saint Matthew, of the Congregation of the Sisters of Perpetual Adoration of the Most Holy Sacrament; Elizabeth Theresa of the Most Sacred Heart of Jesus, of the Order of the Ursulines; and Mary Rose.

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Index 506 YEAR 1916 MONTH DAY August 13 Order of Saint Benedict, of Mary of Saint Henry, of the Cistercian Order, and of Associates, allegedly, in hatred of the faith, in July of the year 1794, were massacred at Arouse. QUEBEC. Decree for the introduction of the cause of beatification or declaration of martyrdom of the Servants of God, John de Brébeuf, Gabriel Lalemant, Anthony Daniel, Charles Garnier, Natalis Chabanel, Isaac Jogues, René Goupil, and John de la Lande, of the Society of Jesus. TURIN. Decree of beatification and canonization of the venerable Servant of God, Joseph Benedict Cottolengo, canon and priest, founder of the Institute of Turin of the Little House of Divine Providence. ... IX. 1916 August. Documents - SACRED CONGREGATION 25. Decree concerning the sacred functions to be celebrated by the Cardinals of the Holy Roman Church in the City. Concerning the Ceremonial of the Papal Chapel. Concerning the use of wearing the pectoral cross over the cassock. Concerning the funerals and obsequies of the Cardinals of the Holy Roman Church in the Roman Curia. X. 1915 December 14, February 11, March 7, September 30 - EXTRAORDINARY ECCLESIASTICAL AFFAIRS OF THE SACRED CONGREGATION. Extension of the rights and powers of the Ordinary of Castrum among the Belgian army. DE 1916. CEREMONIAL. XI. - SACRED CONGREGATION FOR SEMINARIES AND STUDIUM GENERAL. Laws of the Roman Academy of Saint Thomas Aquinas. Doubts concerning the Motu Proprio "Doctor Angelicus" and concerning the XXIV philosophical theses recognized and approved by the Sacred Congregation of Studies. Letter to the Reverend Alfred Baudrillard, Rector of the Catholic Institute of Paris, concerning the more thorough cultivation of the doctrine of Saint Thomas Aquinas. III. - TRIBUNALS. I. 1916 March 17 - SACRED APOSTOLIC PENITENTIARY. Declaration concerning the obligation of reciting the Divine Office by clerics in the sacred constitutions who, compelled by civil law, are engaged in war.

[*Latin ed. p. 507*]

507. Chronologically arranged, YEAR, MONTH, PAGE, DAY. II. - SACRED ROMAN ROTA. 28, March; May; July. 29, 21; 27. Of jurisdictions, or of habitual and actual cares. Of nullities of marriage (Pic-Garreaud). . . MOHILOVIEN. Of nullities of marriage (Radziwill-Benar- » 31, NICLEN. Aug. PITILIANEN. » 13, 16. » Nov. Dec. 4, 30, 1916. » Feb. March. * 7. » » » Apr. 1915. » FESULANA. 19, PARISIEN. 45, 75. » e * » Of nullities of marriage (Surcouf-de Serres). . . 109, 120. Of nullities of marriage (Santelli-Stettiner). 184. Of nullities of marriage (Charrier-Godet). . . PARISIEN, or NICIEN.

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Of nullities of marriage (Massier-. 158, PARISIEN. 324, 275. Of nullities of marriage (De Payer-Level). Of nullities of marriage (Edeline-Ledanois). 4. » PARISIEN. 10, 18, MOHILOVIEN. PARISIEN. . . 200, 367, 343. Of nullities of marriage (Radziwill-Benar- 415, May, July, Aug. 10, 28. » » 14. » Oct. 31. » 2. Concerning the collation of a Benefice. . . . CALATANISIADEN. Of nullities of marriage (Territo-Baglio). FOROIULTEN. Of nullities of marriage (De Blonay-De Mele- 239. Collation of a benefice, FLORENTINA. Of nullities of marriage (Marchio-Bini). Citation. 448, ROMANA. 487, 349, ROMANA. 427. 1916. » » Apr. Jun. Aug. 28. » 8. - APOSTOLIC SIGNATURE. Of jurisdictions, or of sentences concerning nullities, in totality. BONONIEN. Of the commission or regularity of a parish. SALUTIARUM. 206, 287, 375. IV. - SECRETARY OFFICES. 1916, Feb. 9. » May 8. » Nov. STATUS. Letter to Reverend Father H. Desqueyrous, general procurator of the Dominican Sodalities of the province of Hiberniae, concerning the reverently presented ephemerides "The Irish Rosary" and "The Imeldist," offering thanks. Decree. Concerning how the announcers should be called, and how the Apostolic Delegates. Letter to Reverend Father Aloysius Caterini, S.L., director of the Pontifical Gregorian University, determining that three gold coins, already benevolently destined as a reward for the best students, should be granted annually. 85, 213, 494.

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Index of Notable Matters 511, concerning pious causes; 6) when the service strives for greater things. In the year 1834, the Pious Society, to which the "Delle Umiliate" were given the name, was established before the altar, 39. She also joined other societies and, with reserved matters, 453; curial matters, 454. She provided useful assistance in all things, 154. In the Vatican Basilica, she distinguished three classes of the faithful, which Benedict XIV, in the Bull "Ad honorandam," named after Jesus of Nazareth, 449; - see Offices. In 1865, she founded an institution for the assistance and care of the sick at home. In the same year, the superiors of the archdiocese of Benevento, for three years, withdrew from their parishes of Casalnuovo Monteretaro, Lesina, and Poggio Imperiale, to dedicate themselves to the institution, following the example of Jesus of Nazareth and his ineffable charity, both to themselves and to their sisters. The infirm of health often labored, weakened by austerities, but strengthened by the sacraments, died on February 23, 1873, at the age of seventy. The fame of her sanctity grew

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daily, and a Commission for the introduction of the cause of her beatification and canonization was established by the Holy Father, Pope Pius XIII, on April 12, 1916, 154 sqq.

The Most Reverend Bernardini (S.) of Siena, see Sanctuary of the Holy Sacrament.

Bettinger (de), see De Bettinger.

Sacred Scriptures: Pope Leo XIII, in his Encyclical Letter "Providentissimus Deus," illustrated the principles that must be followed in the study and interpretation of the divine scriptures, and thus defended the rationalists who attacked them; afterwards, the Holy See established the Consilium Biblicum, 305.

Most excellent fruits have been obtained: opportune questions have been addressed, and special laws have been established for biblical studies. Moreover, the author, Pope Pius X, decreed that the Pontifical Council should commend and approve the union of these societies, and that many of them should be given the name of the Benedictine societies, 309, for the service they render. Not long after, the Pontifical Biblical Institute was founded in Rome, in order to open the way for the safe and proper pursuit of Holy Scripture, to which the members of the Society of Jesus contribute excellently. Having considered all these things, the Holy Father established the Pontifical Biblical Institute, 306, in order to carry out and perfect such important undertakings.

Bosco (Ven.) John, founder of the Congregation of Salesians: the introduction of the cause of his beatification and canonization was presented to the Third and Final Consistory by the Reverend Father Charles Santucci on December 7, 1916, 473.

Brébeuf (de) John, of the Society of Jesus, born in the town of Condé-sur-Vire, in the year 1603, was ordained a priest and went to the missions in the Canadian region, where he did much for the preaching of the Gospel of Christ, until the year 1649, when, having been captured by barbarians and put in chains, he was cruelly tortured, until, struck by an axe, he died on March 14, 360; he was born of pious parents, and learned piety especially from his grandmother and later from the nuns of the Most Holy Virgin of Mount Carmel. She frequently recalled the Passion of Christ and the sorrows of the Virgin Mary, especially in the devotion of the Stations of the Cross. Afterwards, absorbed in domestic cares, she was somewhat afflicted by anxieties and sorrows, but, with divine grace, she returned to her former fervor through penances and tears, and she received a letter from the Reverend Father, along with others of the prelates of Emilia, at the annual gathering, 434.

Bucceroni, January, of the Society of Jesus, doctor of moral theology, received a letter from the Gregorian Athenaeum, to be given to those being

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fallen, the Ordinary of the place should immediately remind the Ordinary of the duty of the Ordinary, as well as the proper Ordinary of the cleric or priest, and (if he has transferred to another diocese), the Ordinary of that diocese, 258. 4) Where the Vicar or Delegate of a bishop of Castrum resides, he should communicate with the Curia and the Ordinary of the place in order to promote the good of the clergy and priests. 5) All Ordinaries should support and guide all of the clergy and priests, as well as the superiors of Orders and Congregations, through their letters. - 6) Each Ordinary, and the superiors of Orders and Congregations, should as quickly as possible send the names of the clergy and priests who are assigned to the service of the Ordinary of Castrum in Rome. - 7) After the war is over, the Ordinary of Castrum should send to the Ordinaries of the dioceses, and to the superiors of Orders and Congregations, information about each of the clergy and priests who were in military service; each Ordinary will do the same for the clergy and priests who resided in his diocese for some time. - 8) All are absolutely bound by these rules, 269. — The ecclesiastical province of Haiti, see Conan. The Bishop: against him, a conspiracy is turned into the most grievous penalties, 12. All Ordinaries should promote the Communion of children on the anniversary day of the war, according to the wishes of the Holy Father, 217. The obsequies and funerals of the Most Holy Cardinal of the Roman Church, see Cardinals. • F Ferrari, Most Holy Cardinal, and the other prelates of the ecclesiastical province of Milan, gathered in an annual meeting, receive a letter from the Holy Father, in which he states that nothing is more desirable than the hope of peace, and that he considers the action of embracing Christian social life in a particular way to be very important, 261. The solemnity of the feast, which is celebrated on the Sunday in question by privilege, should be understood to be celebrated on that particular Sunday, and not on the following feast day; Masses may be celebrated on that solemnity, but they are not required, 74. The feast of the translation of the Most Blessed Virgin Mary, see Translation. What is the purpose of the Work for the Propagation of the Faith, 5. The Holy Father urges Catholic women and families to offer particular prayers, in which the end of this immense war may be implored, especially during the appropriate and acceptable time of Lent, 58, see Pompilj. Humbert Fracassini declares that his name was abusively included among the authors of the periodical review called "Rivista di Scienza delle religioni," which he did not approve of, denying his own work, 176. The work of Francis Salesius (of the Society of St. Francis Xavier) is commended by the Holy Father, see Jauch. The fruits of a previously requested restoration, which have been acquired by prescription of three years, are not to be restored; otherwise, they are to be restored, provided they have not been consumed, 286: they are always to be understood with deductions for expenses, 286. Andrew Frihtvirth, Most Holy Cardinal, is adorned with a red biretta in the Consistory on December 7, 1916, 473; the title of SS. Cosmas and Damian is

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special permission from the Holy Congregation; priests of the Latin rite may not entice Greek-Ruthenian faithful to their rite. Faithful of the Latin rite may receive the sacrament of penance from a Greek-Ruthenian priest approved by their Ordinary, which is valid for Latin faithful with Latin priests; likewise, faithful of any rite may receive the Eucharist, and, if necessary, priests of each rite may administer it; but to fulfill the Paschal precept, 106, and for Communion, outside of cases of necessity, the Eucharist must be received by each faithful according to his own rite and from his own pastor; fasts and feasts may be observed according to the customs of the place; and in the proper church, if one exists, Greek-Ruthenians may fulfill the precept of attending Mass; funerals are celebrated by the pastor of the rite to which the deceased belonged. Marriages between faithful of either rite are permitted and are celebrated before the pastor of the woman, after obtaining, if necessary, a dispensation from impediments from the bishop of the bride; the wife may follow the rite of her husband and, after his death, may continue to practice her own rite; children always follow the rite of their father, and, except in cases of necessity, are baptized in that rite, 107. Gregorian University, see Caterinï. Grignion (B.), Louis Marie: The Most Holy Prefect recommends that his book "On True Devotion to the Holy Virgin" be diligently presented to the people, 172, see Lhoumeau. The new diocese of Guaxupé in Brazil is established, divided into two parts of the territory of the diocese of Pouso Alegre, and will be a suffragan of the archdiocese of Mariana, 62. Guernica (Juan de) P., his work "La Perla de la Habana" is included in the Index, 178. Guerra, Felix Ambrose, Archbishop of St. James of Cuba, and other bishops of the Republic of Cuba, receive a letter from the Most Holy Prefect.

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